

CRIMINAL CODE

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GENERAL PART

CHAPTER ONE

GENERAL PROVISIONS

Basis and scope of criminal law compulsion

Article 1

Protection of a human being and other basic social values makes the basis and scope for defining criminal acts, prescribing criminal sanctions and their enforcement to a degree necessary for repression of these offences.

Legality in determination of criminal offences and prescription of criminal sanctions

Article 2

A punishment or other criminal sanction can be imposed only for an act which was defined by the law as a criminal offence before it was committed and for which a sanction was prescribed by law.

No punishment without guilt

Article 3

A punishment and measures of warning can be imposed only to an offender who is guilty of a committed criminal offence.

Criminal sanctions and their general purpose

Article 4

(1) Criminal sanctions are: punishments, warning measures, security measures and educational measures.

(2) General purpose of prescription and imposition of criminal sanctions is repression of the acts which violate and jeopardize the values protected by criminal legislation.

CHAPTER TWO

CRIMINAL OFFENCE

1. General provisions on criminal offence

Criminal offence

Article 5

Criminal offence is a socially dangerous act that the law prescribes as a criminal offence, which is unlawful and which has been committed with guilty mind.

Manner of commission of a criminal offence

Article 6

(1) Criminal offence can be committed by an act or an omission..

(2) Criminal offence is committed by omission if an offender has failed to do what he was obliged to do.

(3) Criminal offence can also be done by omission even if the law does not define it as omission if a perpetrator has satisfied elements of criminal offence by failing to do what he was obliged to do.

Time of perpetration of criminal offence

Article 7

(1) Criminal offence is committed at the time when a perpetrator was acting or was obliged to act, irrespective of when the consequence of that act occurred.

(2) For an accomplice it is considered that he committed a criminal offence at a time when he acted or was obliged to act.

Place of perpetration of criminal offence

Article 8

(1) Criminal offence is committed at the place in which a perpetrator thereof acted or was obliged to act or where whole or partial consequence of the act thereof occurred, while in case of an attempted offence it will also be at place where the consequence of an attempted act in her/his opinion should or could have taken place.

(2) For an accomplice it shall be considered that s/he committed an offence at the place where s/he acted.

An offence of minor significance

Article 9

(1) An offence which represents an offence of minor significance although it has elements of a criminal offence is not a criminal offence.

(2) A criminal offence is an offence of minor significance if the nature and the gravity of the offence, circumstances under which it was done, the motives out of which it was done, degree of offender's guilt, absence or insignificance of harmful effects and other circumstances indicate to the minor significance of the offence thereof.

(3) The provisions of Paragraphs 1 and 2 of this Article cannot be applied on criminal offences for which punishment of imprisonment for more than three years is prescribed.

Self-defense

Article 10

(1) An act committed in self-defense is not considered a criminal offence.

(2) Self-defense is such defense which is absolutely necessary for a perpetrator in order to avert from his/her good or someone else's good concurrent or immediate unlawful attack.

(3) An offender who has exceeded the limits of necessary self-defense can be punished by a reduced penalty and if s/he has exceeded limit due to strong excitement or fear caused by an assault s/he can also be freed from sanction.

Extreme necessity

Article 11

(1) An act committed in extreme necessity shall not be considered a criminal offence.

(2) Extreme necessity exists when an act is committed in order that the offender avert from his/her good or someone else's good concurrent or imminent danger s/he did not caused which could not have been averted in any other way, provided that the evil created thereby does not exceed the one which was threatening.

(3) If an offender negligently created the danger him/herself, or if s/he exceeded the limits of extreme necessity, s/he can be punished by a reduced penalty, and if s/he exceeded the limits under particularly mitigating circumstances s/he can be acquitted of a punishment at all.

(4) There is no extreme necessity if an offender was under an obligation to expose her/himself to the threatening danger.

Force and threat

Article 12

(1) An act which has been done under the influence of absolute force shall not be considered a criminal offence.

(2) If an act has been committed in order that an offender averts from him/herself or from someone else a danger that was caused by a force which is not absolute or under threat, the provisions of Article 11 of the present Code shall be applied to the offender accordingly, considering the force and threat as a danger which s/he did not cause.

(3) If a criminal offence has been committed under force or threat and the conditions of Paragraphs 1 and 2 of this Article are not met, an offender thereof can be punished by a reduced penalty and if the offence was committed under particularly mitigating circumstances, s/he can be acquitted of any punishment.

(4) In cases referred to in Paragraphs 1 and 2 of this Article if a person who has been under force or threat is not considered a perpetrator of that criminal act, then the person who has inflicted the force and threat thereof shall be considered a perpetrator.

Guilt

Article 13

(1) An offender is considered guilty if s/he has committed a criminal act in mental capacity and with intent.

(2) An offender is guilty for a criminal act committed negligently only when it was ordered by law.

Mental capacity

Article 14

(1) An offender who at the moment of committing a unlawful act prescribed according the law as a criminal offence could not understand the importance of his/her act or could not control his/her actions due to mental illness, temporary mental disorder, mental retardation or other severe mental disorder (mental incapacity) shall be considered a mentally incapable person.

(2) An offender whose ability to understand the importance of his/her act or ability to control his/her actions was substantially diminished due to any of the conditions stipulated in Paragraph 1 of this Article (substantially diminished mental capacity) can get a reduced punishment.

(3) A guilt of a criminal offender who by consumption of alcohol, drugs or in any other way brought him/herself into a state in which s/he could not understand the significance of his/her acts or could not control his /her actions shall be determined according to the time before s/he brought him/herself in that condition.

(4) An offender who under circumstances referred to in Paragraph 3 of this Article has committed a criminal offence in the state of substantially reduced mental competence cannot get a reduced sentence on the basis of that.

Intent / intentional fault

Article 15

A criminal offence has been committed with intent if the offender was aware of his/her act and wanted it to be committed; or when the offender was aware that s/he could commit an act thereof and s/he consented to it.

Negligence

Article 16

A criminal offence has been committed by negligence if an offender was aware that by his/her action s/he could commit an offence but s/he has carelessly assumed that it would not occur or that s/he would be able to prevent it; or when s/he was not aware of the possibility that by his/her act s/he could commit an offence although, under the circumstances in which the act thereof was committed, and in his/her personal capacity s/he was obliged and could have been aware of that possibility.

Liability for a graver consequence

Article 17

When a graver consequence has resulted from a criminal offence due to which a more severe punishment is envisaged by law, this more severe punishment may be imposed if the consequence is attributable to the offender's negligence, as well as to his intent if by that an offender has not made elements of some other criminal offence.

Mistake of fact

Article 18

(1) A person is not criminally responsible if at the time of committing a criminal offence s/he was not aware of statutory element in it, or if s/he mistakenly believed that circumstances existed which, had they really existed, would have rendered such a conduct permissible.

(2) If the offender's mistake was due to his/her negligence, s/he shall be criminally liable for a criminal offence by negligence, insofar as the offence thereof is determined by law.

Mistake of law

Article 19

Any offender who could not know and was not obliged to know that his/her act is prohibited shall not be held criminally responsible.

2. Attempted criminal offence and voluntary abandonment

Attempt

Article 20

(1) Anyone who with intent commences commitment of a criminal offence, but does not finish it, shall be punished for attempted criminal offence which the law prescribes as punishable with imprisonment of five years or more, whereas other attempted criminal offences shall be punishable solely when explicitly prescribed so by law. (2) Use of certain tool or application of certain manner of commitment shall also be considered as a commenced criminal offence if the law defines them as elements of criminal offence.

(3) An offender shall be sanctioned for an attempted offence by punishment prescribed for criminal offence thereof, but s/he can also be punished by a reduced penalty.

Inappropriate attempt

Article 21

An offender who attempts committing a criminal offence with inappropriate tool or against an inappropriate object can be acquitted of any punishment.

Voluntary abandonment

Article 22

(1) An offender who has attempted to commit a criminal offence, but has voluntarily desisted its completion can be acquitted of a punishment.

(2) In case of voluntary desisting, the offender shall be punished for those actions which constitute another independent criminal act which is not comprised in the criminal offence the offender desisted from committing.

3. Complicity in criminal offence

Co-perpetration

Article 23

If several persons jointly commit a criminal offence by jointly taking part in criminal conduct or in other way, each of them shall be punished as prescribed for the offence in question.

Incitement

Article 24

(1) Anyone who with intent incites another to commit a criminal offence will be punished as if s/he has committed it by himself/he r self.

(2) Anyone who with intent incites another to commit a criminal offence which is punishable by law with prison sentence of five years or more shall be punished for an attempted criminal offence even if the offence has not been attempted at all.

Aiding

Article 25

(1) Anyone who with intent aids another person in the commission of a criminal offence shall be punished as if s/he has committed it, but a reduced punishment can also be pronounced.

(2) The following, in particular, shall be considered as aiding in the commission of a criminal offence: giving instructions or counseling about how to commit a criminal offence, supply of means for committing a criminal offence, creation of conditions or removal of obstacles for committing a criminal offence as well as the promise given prior to the commission of the offence to conceal the criminal offence, offender, means for committing the criminal offence, the traces of criminal offence and the proceeds gained through the commission of the criminal offence.

The limits of responsibility and punishability of accomplices

Article 26

(1) A co-perpetrator is criminally liable within the limits of his/her intent or negligence, and inciter and aide within the limits of their intent.

(2) A co-perpetrator, inciter or an aide who has voluntarily prevented the commission of a criminal offence can be acquitted of any punishment.

(3) Personal relations, characteristics and circumstances on the basis of which the law excludes criminal culpability or allows acquittal of punishment and on which the existence of privileged or graver mode of an offence depend or which is of influence in meting out the sentence can be taken into consideration only for the perpetrator, co-perpetrator, inciter or aide with whom such relations, characteristics and circumstances exist.

Punishment for inciters and aides for an attempt and minor criminal offence

Article 27

(1) If a criminal offence remained in attempt the inciter and aide shall be punished for an attempt.

(2) If an offender has committed a lesser criminal offence than the one for which s/he has been incited or aided, and which would have been comprised in it, the inciter and aide thereof shall be punished for the criminal offence which has been committed.

(3) The provision of Paragraph 2 of this Article shall not be applied if the inciter thereof would have been punished more severe by applying the provision of Article 24, Paragraph 2, of the present Code.

4. Special provisions regarding criminal liability for criminal offences committed through the public information media

Criminal liability of an editor-in-chief

Article 28

(1) For criminal offences committed through the public information media criminal liability is assigned to an editor-in-chief or a person who replaced him/her at the time when the information was published:

1. if the author remains unknown until the end of the hearing before a first instance court;
2. if the information was published without the author's consent;
3. if at the time when the information was published the factual or legal impediments for prosecution of the author existed and which still lasts.

(2) An editor-in-chief or a person who is replacing him/her shall not be held liable if out of justifiable reasons s/he did not know about some of the circumstances referred to in Items 1-3, Paragraph 1 of this Article.

Criminal liability of a publisher, type-setter and manufacturer

Article 29

(1) If the conditions set forth in Article 28 of the present Code exist, the following persons shall be held criminally liable:

- 1) a publisher – for a criminal offence committed through regular press publications and, if an editor-in-chief does not exist or there are actual or legal obstacles for his/her prosecution, the type-setter who had the knowledge of it.
- 2) a manufacturer – for the criminal offence committed through compact disc, phonograph record, magnetic tape and other audio means, film for public or private display, slides, videos or other similar means of communication intended for wider audience.

(2) If a publisher, type-setter or manufacturer is a legal person or a state authority, the person in charge of publishing, type-setting or manufacturing shall be held criminally liable.

Application of provisions defined in Articles 28 and 29

Article 30

The provisions on criminal liability of the persons defined in Articles 28 and 29 of the present Code shall be applied only provided that these persons cannot be considered perpetrators of criminal offence by general provisions of this Code.

Criminal liability of legal persons

Article 31

(1) Liability of legal persons for criminal offences, as well as sanctions to be applied thereto shall be envisaged by law.

(2) Criminal offences for which a legal person can be held criminally liable shall be prescribed by law, as well.

CHAPTER THREE

PUNISHMENTS

1. Purpose of punishment, types of punishment, conditions for their imposition

Purpose of punishment

Article 32

The purpose of punishment within the framework of the general purpose of criminal sanctions (Article 4, Paragraph 2) is:

- 1) Prevention of an offender from committing criminal offenses and provision of rehabilitative influence so that s/he does not commit criminal offences thereafter;
- 2) Influence on others not to commit criminal offences;
- 3) Expression of social condemnation for a criminal offence and of an obligation of respect to law;
- 4) Providing moral strength and influence on the development of social responsibility.

Types of punishment

Article 33

The following punishments can be imposed on the perpetrators of criminal offences:

- 1) a thirty-year imprisonment
- 2) an imprisonment
- 3) a fine
- 4) a community service

Principal and accessory punishments

Article 34

(1) A thirty-year imprisonment, imprisonment and community service can be pronounced only as principal punishments.

(2) A fine can be imposed both as a principal and as an accessory punishment.

(3) If for a criminal offence several punishments are prescribed, only one of these can be pronounced as the principal punishment.

Thirty-year imprisonment

Article 35

(1) A thirty-year imprisonment can be prescribed for the most serious criminal offences, provided that it cannot be prescribed as the only punishment for a certain criminal offence.

(2) A thirty-year imprisonment sentence cannot be pronounced:

- 1) to a person who was under 21 at the time of commission of a criminal offence;
- 2) to a person who had significantly reduced mental capacity (Article 14, Paragraph 2) at the time of commission of a criminal offence.
- 3) for an attempted criminal offence.

Imprisonment

Article 36

(1) An imprisonment sentence can not be shorter than thirty days nor longer than twenty years.

(2) The imprisonment sentence referred to in Paragraph 1 of this Article shall always be pronounced in full years and months, and those ones shorter than six months, in months and days.

Release on parole

Article 37

(1) A convicted person who has served half of the prison sentence or of the thirty-year imprisonment sentence can be released on parole if in the course of serving the prison sentence thereof s/he has improved so that it is reasonable to expect that s/he will behave well while at liberty and, particularly that s/he will refrain from committing criminal offences until the end of time the prison sentence had been imposed. At the assessment on whether to release a person on parole his/her conduct during the period of serving the sentence, performance of work tasks appropriated to his/her working abilities, as well as other circumstances indicating that the purpose of punishment has been achieved shall be taken into consideration.

(2) In the case referred to in Paragraph 1 of this Article, if the parole is not revoked, the convicted person shall be considered to have served the sentence.

Revocation of parole

Article 38

(1) The court shall revoke parole if a convicted person commits one or more criminal offences while on parole, for which imprisonment sentence of more than a year is pronounced.

(2) The court can revoke parole if a person on parole commits one or more criminal offences for which imprisonment sentence of less than one year is pronounced. While determining whether to revoke the parole, the court shall particularly consider whether criminal offences are related, motives and other circumstances which thereby represent justification for revocation of parole.

(3) Paragraphs 1 and 2 of this Article shall be applied even if a person on probation is tried for a criminal offence that s/he committed before release on probation.

(4) When the court revokes parole it shall pronounce punishment by applying provisions of Articles 48 and 50, Paragraph 2, of the present Code and it shall consider previously pronounced sentence as the one already established. A part of the sentence the convicted person has already served according to previous conviction shall be counted in the new sentence, while the time spent on probation shall not be credited for.

(5) If a person on parole is sentenced to imprisonment of less than a year and the court does not revoke the parole, the parole shall be extended for the period of the imprisonment sentence which the convicted person has served.

(6) In the case referred to in Paragraphs 1 to 3 of this Article, a parole can be revoked at latest within two years of the date the parole expired.

Fine

Article 39

(1) A fine cannot amount to less than € 200. A fine can not amount to more than € 20.000, and for the criminal offences committed out of greed it can not exceed € 100.000.

(2) A fine pronounced as the principal punishment shall be pronounced in the following amounts:

- 1) up to € 2.000 for criminal offences punishable with imprisonment sentence of maximum 3 months;
- 2) from €400 to €4.000 for criminal offences punishable with imprisonment sentence of maximum 6 months;
- 3) from €600 to €8.000 for criminal offences punishable with imprisonment sentence of maximum one year;
- 4) from €800 to €16.000 for criminal offences punishable by imprisonment sentence of maximum 2 years;
- 5) at least €1.200 for criminal offences punishable with imprisonment sentence of maximum three years.
- 6) at least €1.200 for criminal offences for which a fine is envisaged by law as the sole punishment.

(3) For criminal offences committed out of greed the fine as an accessory punishment can be pronounced even if it is not prescribed by law, or when the law prescribes that the offender shall be punished by imprisonment sentence or fine and the court pronounces imprisonment as the principal sentence.

(4) If the court determines a fine as the principal punishment, and it also determines fine as an accessory punishment, it shall pronounce only one fine pursuant to the provisions of Article 48 of the present Code.

(5) The judgment shall determine payment time limit for a fine which can not be shorter than fifteen days nor longer than three months. In justified cases, the court can allow the convicted person to pay in instalments, provided that the payment deadline can not exceed one year.

(6) If a convicted person fails to pay a fine in the deadline set thereof, the court shall replace the fine with imprisonment sentence by converting each €40 of the fine into one day of imprisonment provided that the imprisonment sentence cannot last longer than six months, and if the fine pronounced exceeds the amount of €14.000, the imprisonment sentence can not be longer than one year.

(7) If a convicted person pays only one part of the fine, the court shall replace the remaining part by proportionally converting it into imprisonment sentence, and if a convicted person pays the remaining part of the fine, the execution of the imprisonment shall be discontinued.

(8) After the death of a convicted person the fine shall not be effectuated.

Fine in daily amounts

Article 40

(1) In the cases when revenues and expenditures of a perpetrator of a criminal offence can be determined, the court may pronounce a fine in daily amounts.

(2) The daily amount of a fine shall be determined on the basis of revenues and expenditures of a perpetrator of a criminal offence, provided that a portion of the fine that corresponds one day cannot be less than €10 or exceed the amount of €1.000.

(3) The number of daily amounts cannot be less than 10 or larger than 360 days. The number of daily amounts for a committed criminal offence shall be meted out on the basis of general rules applied to the meting out of penalties (Article 42).

(4) The final amount of a fine shall be determined by the court by multiplying the number of daily amounts meted out with the ascertained value of one daily amount.

(5) It is for the purpose of ascertaining the value of daily amounts that the court may request from banks and other financial institutions, state authorities and legal entities to make available the relevant data; they shall be obliged to present the data requested without referring to the protection of business or other secrets.

(6) Provisions of Article 39, Paragraphs 3 to 8 of the present Code shall also be applied when a fine is pronounced pursuant to the provisions of this Article.

Community service

Article 41

(1) Community service can be imposed for criminal offences punishable by a fine or imprisonment sentence of up to three years.

(2) Community service cannot last shorter than 40 hours nor longer than 240 hours and shall be pronounced for the period of time that cannot be shorter than thirty days nor longer than six months.

(3) This punishment shall be pronounced with the consent of a criminal offender and cannot be longer than forty hours during one month.

(4) Community service is to be deemed any socially useful work which does not offend human dignity and is not done for the purpose of gaining profit.

(5) When pronouncing this punishment, the court shall pay consideration to the type of criminal offence committed and to the character of an offender.

(6) If a criminal offender does not perform the community service, the present punishment will be replaced by imprisonment sentence, thus that each forty hours of community service shall be taken as one-month imprisonment sentence.

2. Meting out a punishment

General principles of meting out punishments

Article 42

(1) The court shall determine a punishment for a criminal offender within the limits envisaged by law for the criminal offence in question, having in mind the purpose of punishment and taking into account all circumstance that have bearing on magnitude of the punishment (mitigating and aggravating circumstances), and particularly the following: a degree of culpability, the motives from which the offence was committed, the intensity of danger or injury to the protected good, the circumstances in which the offence was committed, the past conduct of the offender, his/her personal situation, his/her behaviour after the commission of the criminal offence, particularly his attitude towards the victim of the criminal act and other circumstances related to the personality of the offender.

(2) In determining a fine the court will give particular consideration to the financial status of an offender, as well.

(3) The circumstance which is an element of a criminal offence cannot be also taken into consideration either as aggravating or mitigating circumstance, except if it exceeds the measure required for establishing the existence of the criminal offence thereof or certain form of pertaining criminal offence or if there are two or more such circumstances, only one being sufficient for the existence of aggravated or privileged type of criminal offence.

Repetition of an offence

Article 43

When meting out a punishment to an offender for a criminal offence which s/he has committed after sentence served, sentence forgiven or expired or acquitted after the deadline for revocation of probation or after court admonition has been pronounced, the court can take this circumstance as aggravating one and it will particularly assess the seriousness of a previously committed criminal offence, whether the former offence is of the same kind as the latest one, whether both offences were committed out of the same motives, circumstances in which the offences were committed and how much time has passed from the earlier conviction or pronounced, forgiven or expired sentence, from acquittal from punishment, from expiry of the deadline for revocation of earlier probation or from pronounced judicial admonition.

Multi-recidivism

Article 44

(1) For a criminal offence committed with intent for which imprisonment sentence is prescribed, the court can impose a more severe sentence than the prescribed one, under the following circumstances:

- 1) if an offender has already been sentenced to imprisonment two or more times for criminal offences with intent for a term at least one year and shows propensity toward committing criminal offence;
- 2) if a period of five years has not expired between the day when the offender was released after serving the previous sentence and the day when s/he committed the new criminal act.

(2) The more severe punishment must not exceed double the amount of the prescribed punishment and must not exceed the twenty years of imprisonment.

(3) When assessing whether to pronounce a more severe punishment than the prescribed one, the court shall give particular consideration to the number of earlier sentences, relatedness of committed criminal offences, motives out of which they were committed, circumstances under which the offences were made and the need to pronounce such sentence in the aim of attaining the purpose of punishment.

Reduction of punishment

Article 45

The court can impose to the perpetrator of criminal offence the penalty below the limit prescribed by law or more lenient type of punishment whenever:

- 1) the law prescribes that an offender's punishment can be reduced;
- 2) the law prescribes that an offender can be acquitted of sentence, whereas the court does not acquit him/her;
- 3) it is established that there are particularly mitigating circumstances and determines that the purpose of punishment is achievable with reduced punishment, as well.

Limits of reduction of punishment

Article 46

(1) If the conditions for reduction of the punishment referred to in Article 45 of the present Code were met, the court shall reduce the punishment within the following limits:

- 1) if the lowest prescribed punishment for the criminal offence is a prison sentence of minimum five years, the sentence can be reduced to the two-year imprisonment;
- 2) if the lowest prescribed punishment for the criminal offence is a prison sentence of minimum three years, the sentence can be reduced to the one-year imprisonment;
- 3) if the lowest prescribed punishment for the criminal offence is a prison sentence of two years, the sentence can be reduced to the six-month imprisonment;
- 4) if the lowest prescribed punishment for the criminal offence is a prison sentence of one year, the sentence can be reduced to the three-month imprisonment;
- 5) if the lowest prescribed punishment for the criminal offence is a prison sentence less than one year, the sentence can be reduced to the thirty-day imprisonment;
- 6) if the prescribed punishment for the criminal offence does not specify the minimum sentence, the prison sentence can be replaced by a fine;
- 7) if the prescribed punishment for the criminal offence is the fine with prescribed minimum amount, the fine can be reduced to the amount of €600.

(2) When the court is authorized to acquit an offender of any punishment, it can reduce his/her punishment without limitations prescribed for reduction of punishment.

Acquittal of punishment

Article 47

- (1) The court can acquit a criminal offender of punishment only when so explicitly prescribed by law.
- (2) The court can also acquit of the punishment the criminal offender who has committed an offence out of negligence if the consequences of that offence affect the offender so strongly that the pronouncement of sentence in that case would obviously not serve the purpose of punishment.
- (3) The court can also acquit of punishment the offender who committed a criminal offence punishable by the maximum imprisonment of five years, if s/he removes the effects of the offence or compensates the damage caused by the criminal offence thereof after s/he committed criminal offence and before s/he learned that he was detected.

Concurrence of criminal offences

Article 48

(1) If an offender by one action or several actions has committed several criminal offences for which s/he is tried at the same time, the court shall first assess the punishment for these offences respectively and then pronounce a single sentence.

(2) The court shall pronounce a single sentence in line with the following rules:

- 1) if a 30-year imprisonment penalty has been determined by the court for one of the criminal offences in concurrence, it shall pronounce that punishment only;
- 2) if the court has determined imprisonment for criminal offences in concurrence, it shall increase the most severe punishment determined provided that the cumulative punishment does not reach the sum of determined punishments nor exceed twenty years of imprisonment;
- 3) if prison sentences of maximum three years are prescribed for all criminal offences in concurrence, the cumulative punishment must not exceed ten years of imprisonment;
- 4) if for criminal offences in concurrence only fines are determined, the court shall pronounce one fine in the amount of the sum of determined fines, but it must not exceed the amount of €20.000 or €100.000 when one or more criminal offences have been committed out of greed;
- 5) if for some criminal offences in concurrence the penalties of imprisonment are determined and for other offences the fines are determined, the court shall pronounce one penalty of imprisonment and one fine pursuant to the provisions of Items 2-4 of this Paragraph.

(3) The court shall pronounce the fine as an accessory punishment if it has been prescribed for at least one of the criminal offences in concurrence, and if the court has determined more than one fine it shall pronounce one fine pursuant to the provisions of Paragraph 2, Item 4 of this Article.

(4) If the court determined penalties of imprisonment and juvenile imprisonment for concurrent criminal offences, it shall pronounce penalty of imprisonment as the single punishment by applying the rules referred to in Paragraph 2, Item 2 of this Article.

Continued criminal offence

Article 49

(1) Continued criminal offence comprises several same or criminal offences of the kind committed in temporal continuity by the same offender and they represent a whole *per se* due to the existence of at least two of the following circumstances: the same injured party, the same object of an offence, use of the same situation or the same permanent relationship, the same places or spaces on which the offence was committed or the single intent of the perpetrator.

(2) The criminal offences against a person can represent a continued criminal offence only provided that they were committed against the same person.

(3) Those offences that by their nature do not allow to be combined in one offence can not represent a continued criminal offence.

(4) If a continued criminal offence comprises less and more serious forms of the same offence, the most serious form out of the committed offences shall be considered the continued criminal offence.

Meting out the punishment for a convicted person

Article 50

(1) If a convicted person is tried for a criminal offence committed before s/he starts serving prison sentence for earlier conviction, or for a criminal offence committed in the course of serving prison sentence or juvenile imprisonment, the court shall pronounce a single sentence for all criminal offences by applying the provisions of Article 48 of the present Code, taking into account the sentence pronounced earlier as an already determined punishment. The sentence or a part of the sentence the convicted person has already served shall be credited to the pronounced sentence of imprisonment.

(2) For criminal offence committed in the course of serving the prison sentence or juvenile custody, the court shall pronounce a sentence to the offender regardless of previously pronounced sentence if by application of the provisions of Article 48 of the present Code and taking into account the seriousness of the criminal offence thereof, and the rest of the earlier sentence, the purpose of the punishment can not be achieved.

(3) A convict who in the course of serving the prison sentence or juvenile custody commits a criminal offence for which the law prescribes a fine or prison sentence of maximum one year shall be punished disciplinary.

Credit of detention and earlier sentence

Article 51

(1) The time spent in detention, as well as any other deprivation of liberty in relation to a criminal offence shall be credited to the pronounced penalty of imprisonment, juvenile imprisonment and a fine.

(2) If a criminal procedure has been conducted for several concurrent criminal offences and the detention has not been ordered for each of them, the time spent in detention shall be credited to the pronounced prison sentence, juvenile custody and a fine for a criminal offence the offender has been convicted for.

(3) Prison sentence or a fine which the offender has served/paid for a misdemeanour or economic offence, as well as sentence or disciplinary measure of deprivation of liberty which the offender has served for violation of military discipline shall be credited to the sentence pronounced for a criminal offence whose characteristics encompass also the characteristics of a misdemeanour, economic offence or violation of military discipline.

(4) For each crediting, one day spent in detention, deprivation of liberty, juvenile prison, a day in prison and the amount of €40 shall be deemed equal.

CHAPTER FOUR

WARNING MEASURES

1. Suspended sentence and judicial admonition

Purpose of a suspended sentence and judicial admonition

Article 52

(1) Warning measures are: suspended sentence and judicial admonition.

(2) Within the general purpose of criminal sanctions (Article 4, Paragraph 2), the purpose of a suspended sentence and judicial admonition is that a sentence for lesser criminal offences is not imposed on the offender once when it is not necessary for the purpose of criminal justice protection and when it is expected that an admonition with the threat of punishment (suspended sentence) or an admonition alone (judicial admonition) will influence the offender enough to deter him/her from committing criminal offences.

Suspended sentence

Article 53

(1) When imposing a suspended sentence, the court determines a punishment to a criminal offender and at the same time it orders that it shall not be carried out provided the convicted person does not commit another criminal offence for a period of time determined by the court, which can not be shorter than one year nor longer than five years (testing period).

(2) By a suspended sentence, the court can order that the sentence shall be carried out even if a convicted person fails to restore the material gain acquired through the commission of the criminal offence, compensate for the damage s/he caused by commission of the criminal offence or fails to meet other obligations prescribed in criminal law regulations. The timeframe for meeting these obligations defines the court within the specified testing period.

(3) Security measures ordered alongside a suspended sentence shall be enforced.

Conditions for pronouncing a suspended sentence

Article 54

(1) A suspended sentence can be pronounced when the maximum penalty of two years imprisonment has been determined to the offender.

(2) For criminal offences punishable by prison sentence of ten years or a more severe punishment a suspended sentence can not be pronounced.

(3) A suspended sentence can not be pronounced unless more than five years have elapsed from the day when the offender's sentence punishing him/her for an intentional criminal offence became irrevocable.

(4) When determining whether to pronounce a suspended sentence the court shall, taking into account the purpose of the suspended sentence, pay a particular attention to the personality of the offender, his/her earlier conduct, his/her conduct after the commission of the criminal offence, degree of criminal liability and other circumstances under which the offence has been committed.

(5) If the imprisonment and the fine both were determined to the offender, a suspended sentence can be pronounced only for the prison sentence.

Revocation of a suspended sentence due to a new criminal offence

Article 55

(1) The court shall revoke a suspended sentence if a convicted person during the test period commits one or more criminal offences for which the sentence of imprisonment of two years or more is pronounced.

(2) If a convicted person during the testing period commits one or more criminal offences for which the sentence of less than two years in prison or a fine has been pronounced, the court shall decide whether to revoke a suspended sentence after it assesses all circumstances referring to the committed offences and offender him/herself, and particularly relatedness of committed offences, their importance and motives from which they were committed. The court shall thereby be limited by the ban on pronouncing a suspended sentence if the offender should be sentenced to more than two years in prison for criminal offences determined in the suspended sentence and for new criminal offences (Article 54, Paragraph 1).

(3) If the court revokes a suspended sentence, it shall pronounce a single prison sentence by applying the provisions of Article 48 of the present Code for both previously committed and for new criminal offence by taking the sentence from revoked suspended sentence as a sentence already determined.

(4) If the court does not revoke a suspended sentence, it can pronounce a suspended sentence or a penalty for a new criminal offence. A convicted person who gets prison sentence for a new criminal offence shall not have that period served in prison credited to the testing period determined by the suspended sentence for a previous offence.

(5) If the court decides that a suspended sentence should be pronounced for a new criminal offence as well, it shall by applying the provisions of Article 48 of the present Code determine a single sentence for both an earlier committed offence and for a new criminal offence and shall specify a new testing period which can not be shorter than one nor longer than five years counting from the day when the new judgment becomes final. If the convicted person in the course of the new testing period commits a criminal offence, the court shall revoke the suspended sentence and pronounce an imprisonment penalty by applying the of Paragraph 3 of this Article.

Revocation of a suspended sentence due to a previously committed criminal offence

Article 56

(1) The court shall revoke a suspended sentence if, after its pronouncement, the court establishes that the convicted person committed a criminal offence prior to the imposition of a suspended sentence and if the court finds that there would have been no grounds for the imposition of a suspended sentence had the existence of that offence been known. In such a case, provision of Article 55, Paragraph 3 shall be applied.

(2) If the court does not revoke a suspended sentence, provision of Article 55, Paragraph 4 of the present Code shall be applied.

Revocation of a suspended sentence due to the failure to meet particular obligations

Article 57

If a suspended sentence prescribes a convicted person to meet some obligations set forth in Article 53, Paragraph 2 of the present Code, and s/he fails to meet that obligation within the deadline set forth in the judgment, the court can within the testing period extend the deadline for meeting the obligation or it can revoke the suspended sentence thereof and pronounce the punishment set forth in the suspended sentence. If the court establishes that the convicted person cannot meet the obligation out of justified reasons, the court shall relieve him/her of meeting that obligation or replace it by other obligation envisaged by law.

Time-limit for revocation of a suspended sentence

Article 58

(1) A suspended sentence can be revoked during the testing period. If in this period a convicted person commits a criminal offence which entails a revocation of a suspended sentence, whereas it is determined by the judgment to start only after the expiry of the testing time, the suspended sentence can be revoked at latest within a year from the day when the testing period has expired.

(2) If a convicted person fails to meet an obligation referred to in Article 53, Paragraph 2 of the present Code within the specified determined time limit, the court can order that the punishment set forth by the suspended sentence be enforced, within the term of one year from expiring of testing period.

Suspended sentence under protective supervision

Article 59

(1) The court can order that the offender who has been subject to a suspended sentence be placed under protective supervision for particular period during the testing period.

(2) A protective supervision encompasses measures of assistance, care, supervision and protection prescribed by law.

(3) If the court establishes that in the course of protective supervision the purpose of this measure has been achieved, it can terminate the protective supervision before expiration of the specified time period.

(4) If a convicted person who has been placed under protective supervision fails to comply with the obligations which the court ordered to him/her, the court can warn him/her or replace the earlier obligations with other obligations or extend the protective supervision within the specified testing period or revoke the suspended sentence.

Conditions for determining the protective supervision

Article 60

(1) When the court pronounces a suspended sentence it can order that an offender be placed under protective supervision if on the basis of his/her personality, former conduct, conduct after commission of the criminal offence, particularly his attitude to victim of the criminal offence and circumstances of commission of the criminal offence, it could be expected that the protective supervision will better serve the purpose of the suspended sentence.

(2) Protective supervision shall be ordered by the court in the judgment by which it pronounces the suspended sentence and determines the measures of protective supervision, their duration and manner for their implementation.

The contents of protective supervision

Article 61

Protective supervision can comprise one or more of the following obligations:

- 1) reporting to a competent authority in charge of execution of protective supervision within the time limits specified by that authority;
- 2) training of the offender for a particular profession;
- 3) accepting a job appropriate to the abilities and affinities of the offender;
- 4) fulfillment of the obligation to support family, care and bringing up of children and performing other family obligations;
- 5) refraining from visiting certain places, bars or events if that can be a chance or incentive for commission of a criminal offence again;
- 6) timely reporting the change of residence, address or job;
- 7) refraining from drug and alcohol consumption;
- 8) medical treatment in an appropriate medical institution;
- 9) visiting particular professional and other counseling wards or institutions and following their instructions;
- 10) eliminating or mitigating the damage caused by the criminal offence in question, particularly reconciliation with the injured party.

Selection of measures of protective supervision

Article 62

When selecting the obligations set forth in Article 61 of the present Code, the court shall particularly take into account the age of an offender, his/her health condition, affinities and habits, motives from which s/he committed a criminal offence, conduct after s/he committed criminal offence, earlier conduct, personal and family situation, ability to meet the ordered obligations as well as other circumstances relevant for pertinent to the personality of the offender and those that bear relevance to the selection of the measures for protective supervision and their duration.

Duration of protective supervision

Article 63

(1) The duration of the measures of protective supervision shall be determined within the testing period specified by the suspended sentence.

(2) Protective supervision shall be terminated by revocation of a suspended sentence.

(3) During the period of protective supervision the court may, depending on the results achieved, order certain obligations to be cancelled or replaced with other obligations.

(4) If the court finds that in the course of protective supervision the purpose of this measure has been achieved, the protective supervision can be terminated before expiration of the specified time period.

Consequences of failure to meet the obligations pertaining to protective supervision

Article 64

If a convicted person to whom a protective supervision has been pronounced fails to meet the obligations that the court has ordered, the court can warn him/her or it can replace previous obligations with other obligations or extend the protective supervision within the framework of the testing period or revoke the suspended sentence.

Judicial admonition

Article 65

(1) Judicial admonition can be pronounced for criminal offences for which the prison sentence or a fine are prescribed and which have been committed under such extenuating circumstances that they render them particularly minor.

(2) For certain criminal offences and under conditions prescribed by law, a court admonition can be pronounced even in cases for which a penalty of imprisonment is prescribed not exceeding three years.

(3) Judicial admonition can be pronounced by the court for several criminal offences committed in concurrence, provided that the conditions referred to in Paragraphs 1 and 2 of this Article have been established for each of these criminal offences.

(4) When deciding whether to pronounce a judicial admonition, the court shall, taking into account the purpose of the admonition, particularly consider the personality of the offender, her/his past conduct, her/his conduct after the commission of the criminal offence, specifically her/his relationship towards the injured party, as well as the degree of criminal liability and other circumstances under which the offence thereof has been committed.

(5) A judicial admonition cannot be pronounced to a military person for criminal offences against the Army of Serbia and Montenegro .

CHAPTER FIVE

SECURITY MEASURES

Purpose of security measures

Article 66

Within the general purpose of criminal sanctions (Article 4, Paragraph 2), the purpose of security measures is to eliminate the situations or conditions which might influence an offender to commit criminal offences in future.

Types of security measures

Article 67

The following security measures can be imposed on persons who have committed a criminal offence:

- 1) mandatory psychiatric treatment and custody in a medical institution;
- 2) mandatory psychiatric treatment at liberty;
- 3) mandatory medical treatment of a drug addict;
- 4) mandatory medical treatment of an alcoholic;
- 5) prohibition from practising a profession, activity or duty;
- 6) prohibition of driving a motor vehicle
- 7) confiscation of objects;
- 8) expulsion of a foreigner from the country;
- 9) publishing of a judgment.

Pronouncement of security measures

Article 68

- (1) The court can pronounce one or more security measures against a criminal offender provided that grounds exist for their pronouncement envisaged by the present Code.
- (2) Mandatory psychiatric treatment and custody in a medical institution and mandatory psychiatric treatment at liberty shall be pronounced as an individual sanction to a mentally incompetent criminal offender. Besides these measures, the court can also order a prohibition from practising a certain profession, activity or duty, prohibition of driving a motor vehicle and confiscation of objects.
- (3) The measures set forth in Paragraph 2 of this Article can be pronounced to a criminal offender whose mental capacity has been substantially impaired if a sentence or suspended sentence has already been pronounced to her/him.
- (4) Mandatory medical treatment of a drug addict, mandatory medical treatment of an alcoholic, prohibition from practising a certain profession, activity or duty, prohibition of driving a motor vehicle, confiscation of objects and publishing of a judgment can be pronounced if the sentence, suspended sentence or judicial admonition has already been pronounced or the criminal offender has been acquitted.
- (5) Expulsion of a foreigner from the country can be pronounced if a sentence or suspended sentence has been pronounced to a criminal offender.
- (6) A security measure shall be imposed for criminal offences in concurrence if the court determines it for at least one of the concurrent criminal offences.

Mandatory psychiatric treatment and custody in a medical institution

Article 69

- (1) The court shall pronounce mandatory psychiatric treatment and custody in a medical institution to a criminal offender who has committed a criminal offence in the state of substantially impaired mental capacity if it ascertains that in relation to the committed offence and the state of mental disturbance there is a serious danger that the offender thereof can commit a more serious criminal offence and that it is necessary to order her/his medical treatment in such an institution for the sake of eliminating the danger thereof.
- (2) If the conditions set forth in Paragraph 1 of this Article are met, the court shall order a mandatory treatment and custody in such an institution to an offender who has committed an unlawful act that the law defines as a criminal offence in the state of mental incompetence.
- (3) The court shall suspend the measure set forth in Paragraphs 1 and 2 of this Article once it ascertains that the need for treatment and custody of the offender in a medical institution has ceased.
- (4) The measure set forth in Paragraph 1 of this Article that is pronounced alongside with the prison sentence can last longer than the pronounced sentence.
- (5) The time the perpetrator who has committed a criminal offence in the state of substantially impaired mental capacity and who has been sentenced to prison has spent in a medical institution shall be credited to the service of the pronounced sentence. If the period spent in a medical institution is shorter than the duration of the pronounced prison sentence, the court shall order that the convicted person is forwarded to serving the remaining prison sentence or release her/him on parole once the security measure is terminated. When deciding about the release on parole, the court shall particularly give consideration to how successful the convict's treatment was, her/his health condition, the time spent in a medical institution and the remaining sentence that the offender has not served, in addition to the conditions set forth in Article 37 of the present Code.

Mandatory psychiatric treatment at liberty

Article 70

- (1) The court shall pronounce mandatory psychiatric treatment at liberty to an offender who has committed an unlawful act that is prescribed by law as a criminal offence in the state of mental incapacity if it ascertains that there is a serious danger that the offender will commit the such act again and that, for the sake of eliminating this danger, her/his treatment outside prison would suffice.
- (2) The measure set forth in Paragraph 1 of this Article can be pronounced also to a mentally incapable offender on whom a mandatory psychiatric treatment and custody in a medical institution have been imposed when the court on the basis of the results of the treatment ascertains that there is no need any more for her/his custody and treatment in that institute, but that her/his treatment at liberty would suffice.
- (3) On conditions set forth in Paragraph 1 of this Article, the court can also pronounce mandatory psychiatric treatment at liberty to an offender whose mental capacity is substantially impaired if s/he has received a suspended sentence or released on probation pursuant to Article 69, Paragraph 5 of the present Code.

(4) Mandatory psychiatric treatment at liberty can be done in a certain medical institution from time to time if this is necessary for a successful treatment thereof, but the periodical treatment in a medical institution cannot last for more than fifteen days in one chunk, nor longer than two months altogether.

(5) Mandatory psychiatric treatment at liberty shall last as long as there is a need for a treatment, but not longer than three years.

(6) If in the case referred to in Paragraphs 1 to 3 of this Article the offender does not take treatment at liberty, or terminates it at her/his own will, or if despite treatment thereof the danger arises that s/he will commit again an unlawful act envisaged by law as a criminal offence that may render her/his treatment and custody in a relevant medical institution necessary, the court can pronounce mandatory psychiatric treatment and custody in such an institution.

Mandatory medical treatment of a drug addict

Article 71

(1) The court shall pronounce a mandatory treatment to an offender who has committed a criminal offence because of addiction to narcotic drugs and if there is a serious danger that s/he might continue committing criminal offences due to this addiction.

(2) The measure set forth in Paragraph 1 of this Article shall be carried out in a penitentiary institution or in an appropriate medical or other specialized institution and shall last for as long as there is a need for treatment, but not longer than three years.

(3) When the measure referred to in Paragraph 1 of this Article is pronounced alongside the imprisonment sentence, it can last longer than the pronounced sentence but its total duration cannot be more than three years.

(4) The time spent in the institution for medical treatment shall be credited to the prison sentence.

(5) If a measure referred to in Paragraph 1 of this Article is pronounced alongside a fine, a suspended sentence, judicial admonition or acquittal of sentence, it shall be carried out at liberty and cannot last for more than three years.

(6) If an offender without justified reasons does not take a treatment at liberty or leaves the treatment at his/her will, the court shall order the compulsory enforcement of the measure in an appropriate medical or other specialized institution.

Mandatory medical treatment of an alcoholic

Article 72

(1) The court shall pronounce a mandatory medical treatment to an offender who has committed a criminal offence because of addiction of alcohol consumption and if there is a serious danger that s/he might continue committing criminal offences due to this addiction. (2) The measure set forth in Paragraph 1 of this Article shall be carried out in a penitentiary institution or in an appropriate medical or other specialized institution and shall last for as long as there is a need for treatment, but not longer than the pronounced prison sentence.

(3) The time spent in an institution for medical treatment shall be credited against the prison sentence.

(4) If a measure set forth in paragraph 1 of this article is pronounced alongside a fine, suspended sentence, judicial admonition or acquittal of sentence, it shall be carried out at liberty and cannot last for more than two years.

(5) If an offender does not take a treatment at liberty or leaves the treatment at her/his will without justified reasons, the court shall order the compulsory enforcement of the measure thereof in an appropriate medical or other specialized institution.

Prohibition from practicing a certain profession, activity or duty

Article 73

(1) The court can prohibit a criminal offender from practicing a certain profession, activity, all or some of duties related to the disposition, utilization, management or handling of someone else's property or taking care of that property, if it is reasonably believed that her/his further exercise of that duty would be dangerous.

(2) The court shall determine the duration of the measure referred to in Paragraph 1 of this Article and it can not be shorter than one nor longer than ten years counting from the day when the judgment thereof has become final, provided that the time spent in a prison or in medical institution in which the security measure has been delivered shall not be credited to the term of this measure.

(3) When imposing a suspended sentence, the court can decide that the sentence shall be revoked if the offender violates the prohibition thereof from practicing a certain profession, activity or duty.

Prohibition of driving a motor vehicle

Article 74

- (1) The court can pronounce a prohibition of driving a motor vehicle to a person who has committed a criminal act which has endangered traffic safety.
- (2) When pronouncing the measure referred to in Paragraph 1 of this Article, the court shall determine to which type and category of vehicles the prohibition thereof refers to.
- (3) The measure referred to in Paragraph 1 of this Article can be pronounced by the court if it ascertains that the gravity of the committed offence, the circumstances under which the offence was committed or previous violations of traffic regulations by the offender indicate that it is dangerous to let this person drive motor vehicle of a certain type or category.
- (4) The court shall determine the duration of the measure set forth in Paragraph 1 of this Article which can not be shorter than three months nor longer than five years counting from the day when the judgment has become final provided that the time served in prison or in an institution in which the security or corrective measure is carried out shall not be credited to the term of this measure.
- (5) If the measure referred to in Paragraph 1 of this Article is pronounced to a person who holds a foreign driver's license for a motor vehicle, the prohibition shall refer to driving a motor vehicle in the territory of Montenegro .
- (6) If the court pronounces a suspended sentence, it can determine that the sentence shall be revoked if an offender violates the prohibition of driving a motor vehicle.
- (7) A mandatory prohibition of driving a motor vehicle can be prescribed by law.

Confiscation of objects

Article 75

- (1) The objects which were used or intended for use in the commission of a criminal offence or which resulted from the commission of a criminal offence can be confiscated if they are property of the offender.
- (2) The objects referred to in Paragraph 1 of this Article can be confiscated even if they are not the property of the offender if so required by the interests of general safety or if necessitated by the reasons of moral, provided however the rights of third persons to the compensation of damages by the offender shall not be encroached.
- (3) The law can stipulate a mandatory confiscation of objects. The law can also stipulate the conditions for confiscation of certain objects in specific cases.

Expulsion of a foreigner from the country

Article 76

- (1) The court can order that a foreigner who has committed a criminal offence be expelled from the territory of Montenegro for the period ranging from one to ten years or for good if s/he has committed a repeated criminal offense (Article 43).
- (2) When assessing whether to pronounce the measure referred to in Paragraph 1 of this Article, the court shall take into consideration the time and gravity of a committed offence, motives from which the criminal offence has been committed, manner in which it was committed as well as other circumstances that indicate to the ineligibility of the foreigner's further stay in Montenegro.
- (3) The period of expulsion commences on the day of coming into effect of the decision thereof, provided the time spent in prison shall not be credited to the term of this measure.
- (4) The measure referred to in Paragraph 1 of this Article shall not be pronounced against an offender who enjoys protection pursuant to the ratified international treaties.

Publishing of the judgment

Article 77

- (1) When pronouncing a sentence for criminal offences committed by means of public media the court can decide to publish the judgment either fully or in brief through the media and at the offender's expense.
- (2) Mandatory publishing of the judgment can be prescribed by law. In that case the court shall decide through which public information medium the judgment in question shall be publicized and whether it shall be publicized either fully or in brief.
- (3) Publicizing of the judgment can be done at latest within 30 days of the day the decision thereof has become effective.

Termination of security measures on the basis of a court decision

Article 78

(1) The court can pass a decision by which it shall terminate the security measures of prohibition of practicing professions, activity or duty and prohibition of driving a motor vehicle if three years have lapsed from the day of enforcement of the measures thereof.

(2) When assessing whether to order termination of the security measure referred to in Paragraph 1 of this Article, the court shall take into consideration the conduct of the convicted person after the pronouncement of the conviction, whether the offender has compensated for the damage caused by the criminal offence, whether s/he has returned material gain obtained through the commission of the criminal offence as well as other circumstances that indicate to the righteousness of cessation of the measures thereof.

CHAPTER SIX

PROVISIONS ON JUVENILES

1. Basic provisions

Applicability of special criminal-law provisions to juveniles

Article 79

(1) The provisions contained in this Chapter shall be applied to juvenile criminal offenders and other provisions of the present Code shall be applied unless otherwise prescribed in this Chapter.

(2) The special provisions that are applicable to juvenile criminal offenders shall be applied on conditions envisaged by the provisions of this Chapter to adults as well, if they are tried for the criminal offence they had committed when they were minors and, exceptionally, if they had committed the offence as young adults.

Exemption of children from criminal sanctions

Article 80

Criminal sanctions can not be applied to a juvenile who at the time of the commission of a criminal offence was under the age of 14 fourteen years (a child).

Criminal sanctions against minors

Article 81

(1) A juvenile who at the time of commission of the criminal offence had reached the age of 14 but not the age of 16 (a young juvenile) can be punished by educational measures only. (1) To a juvenile who at the time of commission of a criminal offence had attained fourteen years of age but had not reached sixteen years of age (a junior juvenile) only educational measures may be imposed.

(2) A juvenile who at the time of commission of the criminal offence had reached the age of 16 but not the age of 18 (a senior juvenile) can be punished by educational measures, but exceptionally, s/he can be sentenced to a juvenile custody. (2) To a juvenile who at the time of commission of a criminal offence had attained sixteen years of age but had not yet reached eighteen years of age (a senior juvenile) educational measures may be imposed, and exceptionally a punishment of juvenile imprisonment may be imposed.

(3) A juvenile can also be punished by security measures on conditions set forth in Article 109 of the present Code. (3) Security measures may be imposed on a juvenile under the conditions set forth in Article 109 of this Code.

(4) A judicial admonition or a suspended sentence can not be imposed on a juvenile.

(5) A suspended sentence and a judicial admonition may not be imposed on a juvenile.

Purpose of educational measures and juvenile imprisonment

Article 82

In the framework of general purpose of criminal sanctions (Article 4, Paragraph 2), the purpose of educational measures and juvenile imprisonment is to ensure that by providing protection and help to juvenile criminal offenders by extending supervision over them, professional training and development of personal responsibility they provide for their education, rehabilitation and proper development. The purpose of a juvenile custody is also to exercise increased influence on juvenile offenders in order to prevent them from committing criminal offences as well as on other juveniles against committing criminal offences.

2. Educational measures

Types of educational measures

Article 83

The following educational measures can be imposed to a juvenile criminal offender:

- 1) disciplinary measures: a reprimand and committal to a reformatory educational center for juveniles;
- 2) measures of intensive supervision: intensive supervision by parents, adoptive parents or a tutor; intensive supervision by tutelary authority and intensive supervision with daily stay in an appropriate institution for reformatory juvenile education;
- 3) institutional measures: committal to an educational institution; committal to an educational – correctional home as well as to a special institution for medical treatment and professional training.

Selection of an educational measure

Article 84

When selecting an educational measure, the court shall take into consideration the age, degree of mental development, mental characteristics, tendency and degree of juvenile's educational neglect, the motives for which s/he has committed an offence, former conduct, the environment and situation in which s/he has lived, the gravity of the offence, whether an educational measure or a sentence had been pronounced to the juvenile before as well as all other circumstances which might influence the pronouncement of the measure that shall best meet the purpose of educational measures.

Pronouncement of educational measures

Article 85

- (1) Disciplinary measures shall be imposed to a juvenile who need not be submitted to extended education reformatory measures and, particularly, if s/he has committed a criminal offence out of recklessness or frivolous behavior.
- (2) Measures of intensive supervision shall be imposed to a juvenile if it appears necessary to submit him/her to extended measures of education, rehabilitation or treatment with adequate supervision but where it is not necessary to completely detach her/him from the old environment.
- (3) Institutional measures shall be imposed to a juvenile when it appears necessary to submit her/him to extended measures of education, rehabilitation or medical treatment but also of her/his detachment from the old environment and if the court finds that the purpose of educational measures cannot be achieved by applying the measures referred to in Paragraphs 1 and 2 of this Article. Pursuant to the provisions of the present Code, the institutional educational measures shall last only until the purpose set forth in Article 82 of the present Code is achieved.

Reprimand

Article 86

- (1) A reprimand is imposed if it is deemed sufficient to reprimand a juvenile for a committed criminal offence.
- (2) When pronouncing a reprimand, the court shall warn the juvenile about the wrongness of her/his act and shall inform her/him about possibility to pronounce a more severe sanction if s/he commits a criminal offence again.

Committal to a reformatory educational center for juveniles

Article 87

- (1) The court shall impose the educational measure of committal to a reformatory educational center for juveniles, if it is necessary to influence her/his personality and conduct through appropriate short-term measures.
- (2) The court shall commit a juvenile who gets a measure set forth in Paragraph 1 of this Article to a reformatory educational center for two hours twice a week, within the period of eight to twelve weeks.
- (3) When pronouncing this measure consideration shall be given to the need that the juvenile thereof is not absent from school or job due to the execution of this measure.
- (4) When the court had pronounced the submission to a reformatory educational center for juveniles, it can order that a juvenile is submitted to the intensive supervision by a tutelary authority upon execution of this measure.

Intensive supervision by parent, adoptive parent or tutor

Article 88

(1) Measure of intensive supervision by parents, adoptive parents or a tutor shall be imposed by the court if parents, adoptive parents or a tutor are capable to perform such a supervision and that it can reasonably be expected of them.

(2) This measure can last from six months to two years and the court can decide later on its termination in a successive procedure.

(3) If the court pronounces the measure referred to in Paragraph 1 of this Article it shall give parents, adoptive parents and a custodian all necessary instructions and order them certain duties which they need to undertake for the purpose of reformative education, medical treatment and removal of detrimental influence on him/her.

(4) When the court pronounces the measure referred to in Paragraph 1 of this Article it shall determine that the tutelary authority shall supervise its execution and provide assistance to parents, adoptive parents or a tutor.

Intensive supervision by a tutelary authority

Article 89

(1) If a parent, adoptive parent or a tutor is incapable of exercising the intensive supervision, a juvenile shall be placed under the supervision of a tutelary authority.

(2) This measure lasts from six months to two years and the court shall in due course decide on its termination.

(3) In the course of this measure a juvenile still lives with her/his parents or other persons who maintain her/him or in whose custody the juvenile is and intensive supervision over her/him is done by an official of the tutelary authority or some other professional appointed by the tutelary authority.

(4) A tutelary authority shall look after the juvenile's education, employment, and detachment from the environment that has a detrimental influence on her/him, necessary medical treatment and putting his living circumstances in order.

Intensive supervision with daily stay in an institution for reformative juvenile education

Article 90

(1) An educational measure of increased supervision with daily stay in an institution for reformative juvenile education can be imposed alongside with increased supervision by parents, adoptive parents or a tutor or alongside with increased supervision by a tutelary authority when an engagement of professionals in an institution for reformatory juvenile education is necessary.

(2) This measure, apart from increased supervision by parents, adoptive parents or a tutor and increased supervision by the tutelary authority also contains an obligation of a daily stay of juveniles in a relevant institution in charge of reformative juvenile education.

(3) This measure lasts from six months to two years and the court shall in due course decide on its termination.

(4) In the course of this measure a juvenile still lives with his/her parents or other persons who maintain him/her or in whose custody the juvenile is, and increased supervision over him/her is by the decision of the court assigned to parents, adoptive parents or a tutor or a tutelary authority.

(5) The tutelary authority shall supervise the execution of this measure.

Special obligations alongside intensive supervision

Article 91

(1) When imposing some of educational measures of intensive supervision, the court can determine one or more of the following obligations for a juvenile, if so needed for a successful accomplishment of the purpose of the pronounced measure:

1) to apologize to an injured person;

2) to remove the damage caused by the committed criminal offence within his/her abilities;

3) to attend school regularly or to go to work regularly;

4) to take a professional training course that is appropriate for his capability and inclination;

5) to refrain from alcohol and drug consumption or to submit to an appropriate medical treatment;

6) to visit an appropriate medical institution or a counselling ward and to follow the guidelines received from the institution thereof;

7) to stay in some other family which is willing to take him/her and which is capable of administering supervision over him/her;

(2) Parents, adoptive parents or a tutor of a juvenile to whom one or more obligations referred to in Paragraph 1 of this Article are assigned, shall be obliged to inform the tutelary authority in timely manner about the change of or longer absence from the permanent or temporary residence.

(3) The obligations set forth in Paragraphs 1 and 2 of this Article shall not exceed the period to which educational measure thereof has been pronounced but the court can replace or revoke the obligations it has ordered.

(4) When ordering the obligations set forth in Paragraph 1 of this Article, the court shall particularly inform the juvenile and his/her parents, adoptive parents or a tutor that in case of failure to meet the obligations thereof the pronounced measure of intensive supervision can be replaced with some other educational measure.

Committal to an educational institution

Article 92

(1) The court shall impose the measure of committal to an educational institution when it is necessary to provide a permanent supervision by professionals for a juvenile.

(2) A juvenile stays in an educational institution for six months at least and two years at most and the court shall, in the course of that measure, decide on its termination.

Committal to an educational - correctional home

Article 93

(1) The court shall impose a measure of committal to an educational - correctional home for juvenile offenders to a juvenile offender over whom it is necessary to administer intensive measures of reformatory education.

(2) When deciding whether to impose the measure referred to in Paragraph 1 of this Article, the court shall particularly take into consideration the degree of educational neglect of a juvenile, gravity and nature of a committed criminal offence and whether any educational measure or juvenile prison sentence has been pronounced to the juvenile before.

(3) A juvenile stays for at least one and at longest four years in an educational correctional home and the court shall, in the course of that measure, decide on its termination.

Release on parole from an educational - correctional home

Article 94

(1) The court can order a release on parole to a juvenile who has stayed in an educational - correctional home for at least one year if, on the basis of success achieved on his/her correctional and reformatory education, it can be reasonably expected that s/he will not commit criminal offences in future and that s/he will behave well in his/her environment.

(2) The court shall decide whether to administer some of the measures of intensive supervision over a juvenile during the parole.

(3) Conditional release shall last at latest to the expiration of statutory period of submission to an educational correctional institution unless the court has revoked the enforcement of this measure or replaced it with other measure.

(4) If in the course of parole a juvenile commits a criminal offence or fails to comply with the obligations pronounced to him/her alongside the measure of increased supervision, the court can revoke a parole. The time spent on parole shall not be credited to the term of the pronounced educational measure.

Committal to a specialized institution for medical treatment and rehabilitation

Article 95

(1) The court can impose a measure of committal to a specialized institution for medical treatment and rehabilitation instead of committal to a reformatory an educational institution or an educational - correctional home to a juvenile with psycho-physical retardation or mental illness.

(2) The measure referred to in Paragraph 1 of this Article shall be imposed instead of the measure of mandatory psychiatric treatment and custody in a medical institution if medical treatment and custody can be provided in an institution for medical treatment and rehabilitation and if thereby the purpose of this security measure can be achieved.

(3) If the measure referred to in Paragraph 1 of this Article has been imposed instead of submission to an educational institution or to a educational - correctional home, the juvenile shall stay in a specialized institution for medical treatment and rehabilitation for maximum three years. If this measure has been pronounced instead of security measure, the juvenile shall stay for as long as it is necessary, and when s/he reaches the age of twenty three years, the execution of this sentence shall be resumed in an institution that administers security measures of compulsory psychiatric medical treatment and custody (a psychiatric institution).

(4) When a juvenile reaches the age of eighteen years, the court shall be obliged to examine the need of his/her further stay in that institution.

Discontinuation of execution and replacement of pronounced educational measure by other educational measure

Article 96

(1) If after the decision is passed on pronouncing a measure of intensive supervision or an institutional measure, the circumstances arise that were not existent or known at the time when it was passed, or if the decision cannot be executed because the juvenile or his/her parents, adoptive parents or a tutor fail to comply with the order of the authority in charge of enforcing the measure thereof or if some other circumstances prescribed by law arise that might influence passing of the decision, the execution of the measure thereof can be suspended or the measure thereof can be replaced by other measure of intensive supervision or institutional measure.

(2) With the exception of cases referred to in Paragraph 1 of this Article, the measure of intensive supervision or an institutional measure can be discontinued or replaced with other measure that will better serve the purpose of educational measure, depending on the results achieved in reforming behaviour, unless otherwise provided for a particular measure. In relation to the institutional measures, the discontinuation of execution or replacement with other measure shall be made within the following limitations:

1) measure of committal to an educational institution cannot be discontinued in execution before expiration of the period of six months, whereas it can be replaced prior to expiration of the period thereof by submission of a juvenile to an educational correction institution or to a special institution for medical treatment and rehabilitation;

2) measure of committal to a reformatory - educational home cannot be discontinued in execution before expiration of the period of one year, whereas it can be replaced prior to expiration of the period thereof by submission of a juvenile to an educational institution or to a special institution for medical treatment and rehabilitation.

Reconsideration of educational measures

Article 97

(1) If more than two years have elapsed of coming into effect of the decision pronounced by which is the measure of intensive supervision or an institutional measure whereas the execution thereof has not started yet, the court shall decide again about the need of enforcing the imposed measure. In doing that, the court can decide that a previously imposed measure be or be not enforced or replaced by other measure.

(2) The measure of committal to a reformatory educational centre for juveniles shall not be executed if more than six months have elapsed of coming into effect of the decision pronounced by which is the measure thereof, whereas its enforcement has not started yet.

Pronouncement of educational measures for criminal offences in concurrence

Article 98

(1) If a juvenile has committed several offences in concurrence the court shall, assessing all of these offences, pronounce one single educational measure.

(2) The court shall also proceed in the manner referred to in Paragraph 1 of this Article if after pronouncement of an educational measure it ascertains that the juvenile has, prior or after its pronouncement, has committed other criminal offence.

Disclosure of data pertaining to pronounced educational measures

Article 99

(1) Data on pronounced educational measures can be disclosed solely to the court, the state prosecutor, custodian authorities and institutions in charge of juveniles' protection and only if the offender has not reached the age of twenty one..

(2) Data on pronounced educational measures shall be disclosed to the authorities referred to in Paragraph 1 of this Article after the offender's age of twenty one. if related to criminal offences for which a penalty of imprisonment over five years is envisaged.

3. Juvenile imprisonment

Punishment of elder juveniles

Article 100

Sentenced may be solely an elder juvenile who has committed a criminal offence for which a penalty of imprisonment exceeding five years is prescribed by law, if due to a high degree of the offender's guilt and gravity of his/her criminal offence the pronouncement of any educational correctional measure would be unjustified.

Juvenile imprisonment

Article 101

(1) Juvenile imprisonment shall not be less than six months or exceed eight years. Exceptionally, for offences prescribed for which as a mildest penalty measure is a prison penalty of ten years, juvenile imprisonment up to ten years may be pronounced.

(2) Penalty of juvenile imprisonment shall be pronounced in full years and months.

(3) Elder juveniles shall serve their penalty of imprisonment in specialized educational correctional institutions for juveniles in which they shall be allowed to stay by the age of twenty three years. Should it happen that their serving of the penalty be not completed by that time, they shall be sent to a correctional institution/penitentiary intended for adults who serve their prison penalty. Exceptionally, a person shall be allowed to stay in an educational correctional institution for juveniles after having reached the age of twenty three years, if indispensable for the continuation of his/her education or professional training, but not after he has reached the age of twenty five years.

Release on parole from juvenile imprisonment

Article 102

(1) A person imposed on whom is the penalty of juvenile imprisonment may be released on parole by a court of law from serving the penalty of juvenile imprisonment, if s/he served one third of the pronounced sentence, but not less than one year, and if it can be reasonably expected, based on the success achieved in correcting his/her conduct, that such a person shall behave correctly while at large and shall restrain from perpetrating criminal offences in future. The court of law may, along with the parole, pass also the measure of an intensive supervision.

(2) For revocation of the parole, provisions of Article 38 of the present Code shall be applied accordingly.

Meting out the penalty of juvenile imprisonment

Article 103

(1) A court of law shall mete out the penalty of juveniles imprisonment within the statutory limits envisaged for such a penalty, taking into consideration the very purpose of the juvenile imprisonment, as well as all circumstances that may make the penalty more or less severe and particularly the degree of a juvenile's mental development and the time needed for his/her education, reforming and professional training.

(2) A court of law may not pronounce the penalty of juvenile imprisonment for a specific criminal offence for a period of time in excess of the statutory prison penalty prescribed for such an offence, but it shall not be bound by the least prescribed measure of such a sentence.

Meting out the penalty of juvenile imprisonment for criminal offences in concurrence

Article 104

(1) Should an elder juvenile commit several criminal offences in concurrence, and the court determine that at least for one of these offences the penalty of juvenile imprisonment is to be imposed, the court of law shall determine single sentence for all these offences within the limits prescribed by provisions of Article 100 of the present Code.

(2) Should it be determined by a court of law that an elder juvenile has to be punished for one of these offences, while for other criminal offences he is to be delivered educational measures, the court shall pronounce for all offences in concurrence solely the penalty of juvenile imprisonment.

(3) A court of law shall also proceed in the manner referred to in Paragraphs 1 or 2 of this Article should it be ascertained after the pronounced sentence that the sentenced offender has committed another criminal offence, prior or after the pronouncement thereof..

Bar to execution of the punishment of the juvenile imprisonment by lapse of time

Article 105

The penalty of juvenile imprisonment cannot be executed in the event of expiration of:

- 1) ten years from the juveniles' imprisonment sentence exceeding five years;
- 2) five years from the juveniles' imprisonment sentence exceeding three years;
- 3) three years from the juveniles' imprisonment sentence not exceeding three years.

Cessation of educational measures due to the pronouncement of a juvenile imprisonment

Article 106

Should a court of law, during the term of an educational measure, impose on an elder juvenile the penalty of juvenile imprisonment, the educational measure shall cease upon the commencement of serving the penalty of imprisonment.

Effect of the penalty on educational measures

Article 107

Should a court of law, during the term of an educational measure, impose on a adult a penalty of juvenile imprisonment (Article 110, Paragraph 3) or a penalty of imprisonment (Article 110, Paragraph 4) in duration of at least one year, the educational measure shall cease when the person in question commences to serve his penalty of imprisonment; if a prison penalty of shorter duration is pronounced, the court shall decide by its judgment whether the educational measure shall be continued upon completion of the imprisonment penalty or it shall be cancelled.

Effect of educational measures and of juvenile imprisonment

Article 108

- (1) Educational measures and juvenile imprisonment shall not produce any legal consequences consisting in the prohibition of acquiring specific rights.
- (2) Persons imposed on whom is a measure of placement in an educational correctional institution or a penalty of juvenile imprisonment shall not be allowed to perform, during the term of the educational measure i.e. juvenile imprisonment penalty, certain duties or functions in the state authorities, local self-government bodies, enterprises and other organizations that in the conduct of their business activities use the state property i.e. organizations assigned to which by law are specific public powers.

Imposing of security measures to juveniles

Article 109

- (1) Security measures, with the exception of prohibition from practicing a profession, business activities and duties, can be pronounced to juveniles, should an educational measure or juvenile imprisonment be imposed on them.
- (2) Security measures of mandatory medical treatment of drug addicts and obligatory treatment of alcoholics, shall not be pronounced along with disciplinary educational measures.
- (3) Security measures of obligatory psychiatric treatment and custody in a health institution, as well as obligatory psychiatric treatment at freedom shall be pronounced independently.

4. Applicability of provisions related to juveniles on adults

Imposing of criminal sanctions to adults for offences they have perpetrated as juveniles

Article 110

- (1) An adult who has reached the age of twenty one year cannot be tried for a criminal offence committed by him/her as a junior juvenile.
- (2) An adult who at the time of a trial has not reached the age of twenty one year, can be tried for criminal offences committed by him/her as a junior juvenile, solely if for that criminal offence the penalty of imprisonment is prescribed exceeding five years. The court may impose on such a person solely a measure of an intensive supervision by a tutelary authority or a relevant educational measure in the competent institution. When assessing which of these measures to pronounce, a court of law shall take into consideration all relevant circumstances of the case, specifically the gravity of the committed offence, the time elapsed from its perpetration, the conduct of the offender, as well as the purpose of this educational measure.
- (3) On an adult who committed a criminal offence as an elder juvenile, solely the measure of an intensive supervision by a tutelary authority or a relevant educational measure in the competent institution can be imposed, on conditions referred to in Article 100. When assessing which of these measures to pronounce, a court of law shall take into consideration all relevant circumstances of the case,

specifically the seriousness of the committed offence, the time elapsed from its perpetration, the conduct of the offender, as well as the purpose expected to be achieved by these sanctions.

(4) Exceptionally to the provision of Paragraph 3 of this Article, a court may impose on an adult who at the time of a trial has reached the age of twenty one year, a prison penalty instead of juvenile imprisonment, duration of which shall be determined within the limits set forth by provisions of Articles 101 and 104 of the present Code. The prison penalty pronounced in this case shall have, as regards rehabilitation and legal consequences, the same legal effect as the penalty of juvenile imprisonment.

Imposing of educational measures to young adults

Article 111

(1) The court may impose a measure of an intensive supervision by a tutelary authority or a measure of placement in an educational correctional institution to an offender who committed a criminal offence as an adult but at the time of a trial did not reach the age of 21, if it is to be expected, taking into consideration his personality and circumstances under which the offence was committed, that these correctional measures shall help to achieve the same purpose as if a penalty were imposed.

(2) The court may, on conditions envisaged by the present Code, impose on a young adult pronounced to whom is an educational measure, all security measures with the exception of prohibition from practicing a profession, business activities and duties.

CHAPTER SEVEN

SEIZURE OF MATERIAL GAIN

Ground for seizure of material gain

Article 112

(1) No one shall be allowed to retain any material gain obtained by a criminal offence.

(2) The gain referred to in Paragraph 1 of this Article shall be seized on conditions envisaged by the present Code, by a judicial decision ascertained by which is perpetration of a criminal offence.

Conditions and manner of seizure of material gain

Article 113

(1) Money, things of value and all other property gains obtained by a criminal offence shall be seized from the offender; should such a seizure be not possible, the perpetrator shall be obliged to pay for the monetary value of the obtained property gain.

(2) A material gain obtained by a criminal offence shall also be seized from the persons it has been transferred to without compensation or against compensation that is obviously inadequate of its real value.

(3) Seized shall also be any property obtained by a criminal offence in favour of other persons.

Protection of injured party

Article 114

(1) Should, in the course of a criminal procedure, a property claim of the injured party be approved, the court shall decide on the seizure of a material gain solely if such a property gain exceeds the property claim of the injured party adjudicated in that amount.

(2) The injured party who, in the course of a criminal procedure, has been referred to institute a civil action in respect to any kind of property claims, may ask to be compensated from the property gain, should s/he institute civil action within the period of six months of the day of coming into effect of the decision on his/her referral to the civil action and should he/she, within the period of three months of coming into effect of the decision approved by which is his/her property claim, ask to be compensated from the seized material gain.

(3) The injured party who, within a criminal procedure, has failed to lodge a property claim, may request to be compensated from the seized property should, for the purpose of his/her claim, s/he institute a civil action within three months of the day of coming to the knowledge of the sentence pronounced by which is seizure of a material gain, and at latest within the period of three years of the day of coming into effect of the decision on seizure of a material gain and should s/he, within the period of three months of the day of coming into effect of the decision on approval of his/her property claim, ask to be compensated out of the seized material gain.

CHAPTER EIGHT

LEGAL CONSEQUENCES OF CONVICTION

Occurrence of legal consequences of conviction

Article 115

(1) Conviction for certain criminal offences or to imposition of certain punishments may have as a legal consequence the cessation i.e. forfeiture of specific rights or prohibition to acquire certain rights.

(2) Legal consequences of conviction may not appear when a fine has been imposed on the offender for a criminal offence or a suspended sentence, should it not be repealed, or a judicial admonition, or when the offender has been remitted of punishment.

(3) Legal consequences of a sentence can be envisaged solely by law and shall come into effect by force of law.

Types of legal consequences of conviction

Article 116

(1) Legal consequences of conviction related to the cessation or forfeiture of specific rights are the following:

- 1) cessation of public functions,
- 2) cessation of a job or practicing a profession or occupation,
- 3) loss of certain permits or licenses issued by the decision of a state authority or a local self-government body.

(2) Legal consequences of conviction related to the prohibition of acquisition of specific rights are:

- 1) prohibition of obtainment of certain public functions;
- 2) prohibition of obtainment of a specific title, profession or occupation, or promotion in service;
- 3) prohibition to be awarded a rank of a military officer;
- 4) prohibition of obtainment of certain permits or licenses issued by a decision of state authorities or local self-government bodies.

Commencement and duration of legal consequences

Article 117

(1) Legal consequences of conviction shall begin on the day of rendering of a final judgement.

(2) Should it happen that, upon coming into effect of a judgement grounded on which are legal consequences, that sentence be changed in compliance with an extraordinary legal remedy, commencement or further continuation of legal effects of the sentence shall be brought into compliance with a new decision.

(3) Legal consequences of conviction consisting in the prohibition of acquisition of certain rights, can be prescribed in duration of a period not exceeding ten years.

(4) The time spent on serving a penalty shall not be credited to the period of duration of legal effects.

(5) Legal consequences of conviction envisaged by provisions of Article 116, Paragraph 2 of the present Code, shall be discontinued by rehabilitation.

CHAPTER NINE

REHABILITATION, DISCONTINUANCE OF LEGAL CONSEQUENCES OF CONVICTION AND DISCLOSURE OF DATA FROM CRIMINAL RECORDS

General notion of rehabilitation

Article 118

(1) It is by rehabilitation that conviction shall be obliterated and all its legal consequences cease, whereas the convicted person shall be deemed to be not convicted i.e. to have no prior convictions.

(2) Rehabilitation shall come into effect either by law (legal rehabilitation) or upon a motion by a convicted person based on the judicial decision (judicial rehabilitation).

(3) No rights of third persons grounded on conviction shall be encroached by rehabilitation.

Legal rehabilitation

Article 119

(1) Legal rehabilitation shall be granted solely to persons who, prior to the conviction the rehabilitation is related to, had no prior convictions or who were deemed by law to have had no prior convictions.

(2) Legal rehabilitation shall be granted in the following instances:

1) if a person convicted but remitted of a penalty, or pronounced to whom is a judicial admonition, does not commit any new criminal offence within the period of one year of coming into effect of the sentence,

2) if a person on whom a suspended sentence is imposed, does not commit any new criminal offence during the testing period and within the period of one year of expiration of the term of testing,

3) if a person sentenced to a fine, penalty of community service or penalty of imprisonment in duration of no longer than six months, does not commit any new criminal offence within the period of three years of the day of execution, barring by limitation or remission of the penalty thereof,

4) if a person sentenced to imprisonment exceeding six months to one year, does not commit any new criminal offence within the period of five years of the day of execution, barring by limitation or remission of the penalty thereof.

(3) Legal rehabilitation shall not commence if an accessory penalty has not yet been executed or if security measures are still in force.

Judicial rehabilitation

Article 120

(1) Judicial rehabilitation can be approved to a person sentenced to imprisonment exceeding one year to two years, should within the period of five years of the day the penalty has been completed i.e. served, barred by limitation or pardoned, no new criminal offence be committed by that person.

(2) Judicial rehabilitation can be approved to a person sentenced to imprisonment exceeding two years to three years, should no new criminal offence be committed by that person within the period of eight years of the day the penalty has been completed i.e. served, barred by limitation or pardoned.

(3) In the case referred to in Paragraphs 1 and 2 of this Article a court of law shall approve rehabilitation if it ascertains that the convicted person has deserved to be rehabilitated by his/her proper conduct and if s/he has compensated for the damage caused by his/her criminal offence according to his/her financial possibilities, whereas the court shall be obliged to take into consideration all other circumstances of relevance for approving rehabilitation, and specifically the very nature and significance of the criminal offence.

(4) Judicial rehabilitation may not be approved if an accessory penalty has not yet been executed or if security measures are still in force.

Judicial rehabilitation of persons with several prior convictions

Article 121

A person who has been convicted several times can be granted a rehabilitation by the court solely if conditions referred to in Articles 119 and 120 are satisfied in respect to each of criminal offences that person has been convicted for. When assessing whether to grant rehabilitation in such a case, the court shall take into consideration all circumstances referred to in Article 120, Paragraph 3.

Cessation of legal consequences of conviction

Article 122

(1) After the lapse of time of three years of the day of a served, barred by limitation or pardoned penalty, a court of law may decide on discontinuation of legal effects of a sentence related to the prohibition of acquisition of a specific right, if it has not already ceased due to rehabilitation.

(2) When deciding on discontinuation of legal consequences of conviction, the court shall take into consideration the convicted person's conduct after having been convicted, whether s/he has compensated for the damage caused by his/her criminal offence and returned

back the property gain obtained by perpetration of a criminal offence, as well as other circumstances that may indicate to the justifiability of discontinuation of legal consequences of conviction.

Disclosure of data from criminal records

Article 123

- (1) Official criminal record shall encompass the following: personal data on the perpetrator of a criminal offence; data on penalties, a suspended sentence and a judicial admonition; pardoned penalties related to an offender the criminal record is maintained for, as well as data on legal consequences of conviction; subsequent changes of data comprised in criminal records; data on serving a penalty and cancellation of record on a wrongfully pronounced sentence.
- (2) Record on educational measures shall encompass the following: personal data on juvenile offenders, data on educational measures that have been administered and enforced, as well as other data related to the administration of educational measures.
- (3) Data filed in official criminal record may be disclosed solely to a court of law, the state prosecutor and authorities of internal affairs, related to the criminal procedure instituted against a person who has prior convictions, as well as to the body in charge of execution of criminal sanctions and the body that participates in the procedure of granting amnesty, abolition, rehabilitation or deciding on cessation of legal consequences of a sentence, same as to the tutelary authorities when so needed for the conduct of duties within their competence.
- (4) Data from criminal records may also be disclosed upon reasoned request, to a state authority, enterprise, other organization or entrepreneur, if legal consequences of a sentence or security measures are still lasting and if there exists a justified interest based on law.
- (5) No one shall be entitled to request from a citizen to submit any evidence on his prior convictions or non-existence of such prior convictions.
- (6) On citizens' request, data on the existence or non-existence of prior convictions may be presented to them solely if such data are needed for the purpose of exercising their rights abroad.

CHAPTER TEN

BARRING BY TIME LIMITS

Barring by time limits criminal prosecution

Article 124

If not otherwise prescribed by the present Criminal Code, criminal prosecution may not take place after expiration of the following periods of time:

- 1) 25 years of perpetration of a criminal offence for which a prison penalty of 30 years can be pronounced by law;
- 2) 20 years of perpetration of a criminal offence for which a prison penalty exceeding 15 years can be pronounced by law;
- 3) 15 years of perpetration of a criminal offence for which a prison penalty exceeding 10 years can be pronounced by law;
- 4) 10 years of perpetration of a criminal offence for which a prison penalty exceeding 5 years can be pronounced by law;
- 5) 5 years of perpetration of a criminal offence for which a prison penalty exceeding 3 years can be pronounced by law;
- 6) 3 years of perpetration of a criminal offence for which a prison penalty exceeding one year can be pronounced by law;
- 7) 2 years of perpetration of a criminal offence for which a prison penalty not exceeding one year or a fine can be pronounced by law.

Course and interruption of barring by time limits of criminal prosecution

Article 125

- (1) Barring by time limits of criminal prosecution shall commence of the day of perpetration of a criminal offence.
- (2) Barring by limitation shall not run for the time period in which prosecution cannot commence or be resumed.
- (3) Barring by limitation shall be interrupted by each procedural act undertaken for the purpose of discovering a criminal offence or discovering and prosecuting an offender due to the committed criminal act.

(4) Barring by limitation shall also be interrupted when a perpetrator, during the period of barring by limitation, commits another serious or more serious criminal offence.

(5) Upon each interruption, barring by limitation shall start to run again.

(6) Barring by limitation of criminal prosecution shall come in effect anyhow upon expiration of twice the time required by law for prescription of criminal prosecution.

Barring by time limits of enforcement of a penalty

Article 126

(1) If not otherwise specified by the present Code, the pronounced sentence cannot be enforced after the expiration of:

- 1) 20 years of a sentence to a prison penalty exceeding 15 years;
- 2) 15 years of a sentence to a prison penalty exceeding 10 years;
- 3) 10 years of a sentence to a prison penalty exceeding 5 years;
- 4) 5 years of a sentence to a prison penalty exceeding 3 years;
- 5) 3 years of a sentence to a prison penalty exceeding one year or a penalty of community service;
- 6) 2 years of a sentence to a prison penalty not exceeding one year or a fine.

(2) Serving the prison penalty of 30 years shall not be barred by limitation / fall under the statute of limitations.

Barring by time limits of enforcement of an accessory penalty and a security measure

Article 127

(1) Barring by limitation of enforcement of a fine as an accessory penalty shall take place after expiration of two years of the day of coming into effect of the sentence pronounced by which is the penalty thereof.

(2) Barring by limitation of enforcement of a security measure consisting of mandatory psychiatric treatment at freedom, mandatory medical treatment of drug addicts, mandatory medical treatment of alcoholics and seizure of things shall take place after expiration of five years of the day of coming into effect of the decision pronounced by which are these measures.

(3) Barring by limitation of enforcement of a security measure consisting of prohibition from practising a profession, business activities and duties, prohibition of driving a motor vehicle and expulsion of foreigner from the country, shall take place after expiration of the time period for which these measures have been pronounced.

(4) Enforcement of the measure of mandatory psychiatric treatment and custody in a health institution shall not be barred by limitation; however, if more than five years elapsed of coming into effect of the sentence pronounced by which is that safety measure, but its enforcement has not yet commenced, the court shall examine whether the execution of this measure is still needed.

Course and interruption of barring by time limits of enforcement of a penalty and a security measure

Article 128

(1) Barring by limitation of enforcement of a penalty shall commence of the day of coming into effect of the sentence by which the penalty is pronounced, and should a suspended sentence be repealed – of the day of coming into effect of the decision on repeal.

(2) Should by the act of amnesty or pardon or judicial decision on an extraordinary legal remedy, the pronounced penalty be reduced, the time period needed for barring by limitation to take place shall be determined against a new penalty, but the period of prescription shall be considered from the former sentence.

(3) Barring by limitation shall not run during the time period in which enforcement of a penalty cannot be undertaken by law.

(4) Barring by limitation shall be interrupted by each act of a competent authority undertaken for the purpose of enforcement of a penalty.

(5) Upon each interruption, prescription shall commence to run again.

(6) Barring by limitation of enforcement of a penalty shall take place anyway after expiration of twice the time prescribed by law for prescription of enforcement of a penalty.

(7) In the event of barring by limitation referred to in Paragraph 6 of this Article, already commenced execution of a penalty shall be discontinued.

(8) Provisions of Paragraphs 2 to 5 of this Article shall also be applied accordingly to barring by limitation of enforcement of security measures.

Criminal offences not subject to the time limit bars

Article 129

Criminal prosecution and execution of a penalty for criminal offences envisaged by Articles 426 to 431 of the present Code are not subject to the time limit bars, as well as for criminal offences for which according to the international treaties, barring by limitation cannot take place.

CHAPTER ELEVEN

AMNESTY AND PARDON

Amnesty

Article 130

(1) To persons under amnesty, a release from criminal prosecution or a complete or partial release from execution of a penalty shall be granted, a pronounced penalty shall be replaced by a milder penalty, rehabilitation granted or specific or all legal effects of a sentence repealed.

(2) Repealed by amnesty can also be security measures of prohibition from practising a profession, conducting a business activity and performing an official duty, prohibition of driving a motor vehicle and expulsion of foreigners from the country.

Pardon

Article 131

(1) By pardon, a specifically named person shall be released from criminal prosecution or completely or partially released from execution of a penalty, a pronounced penalty shall be replaced by a milder penalty or a suspended penalty / parole, rehabilitation shall be granted, duration of a specific legal consequences reduced or specific or all legal consequences of a sentence repealed.

(2) By pardon, a security measure of prohibition from practising a profession, conducting a business activity and performing an official duty, prohibition of driving a motor vehicle and expulsion of foreigners from the country can be repealed or reduced.

Effect of amnesty and pardon on third persons' rights

Article 132

Granting of amnesty or pardon shall not mean the encroachment of third persons' rights grounded on a conviction.

CHAPTER TWELVE

APPLICABILITY OF CRIMINAL LEGISLATION OF THE REPUBLIC OF MONTENEGRO

Applicability of criminal legislation with respect to the time

Article 133

(1) The law in force at the time of perpetration of a criminal offence shall be applied to a perpetrator of a criminal offence.

(2) Should it happen that in the course of perpetration of a criminal offence the applicable law be modified, applied shall be the law in force at the time of completion of the criminal offence.

(3) Should it happen that after perpetration of a criminal offence the law be modified once or more times, applied shall be the law that is the most favourable to the perpetrator.

(4) To a perpetrator of a criminal offence prescribed by the law of a limited applicability with respect to the time, applied shall be that law regardless of when the perpetrator in question is to be tried, if not otherwise specified by that law.

(5) Security measures and educational measures prescribed by a new law can be applied to a perpetrator if not less favourable to him/her than those that could have been applied under the law in force at the time of perpetration of a criminal offence.

Applicability of criminal legislation of Montenegro in the territory of Montenegro

Article 134

(1) Criminal legislation of Montenegro shall be applicable to anyone who commits a criminal offence in its territory.

(2) Criminal legislation of Montenegro shall be also applicable to anyone who commits a criminal offence on board / national ship, regardless of where the ship was located at the time of perpetration of a criminal offence.

(3) Criminal legislation of Montenegro shall also be applicable to anyone who commits a criminal offence in a domestic civil aircraft while at flight or in a domestic military aircraft regardless of where the aircraft was located at the time of perpetration of a criminal offence, if the perpetrator of a criminal offence is a national of Montenegro.

Applicability of criminal legislation of Montenegro to perpetrators of specific criminal offences committed abroad

Article 135

Criminal legislation of Montenegro shall be applicable to anyone who commits abroad a criminal offence referred to in Articles 357 to 369 and Articles 371 to 374 of the present Code or Article 258 of this Code if it refers to the counterfeiting of money that at the time of perpetration of the criminal offence was the legal means of payment in Montenegro.

Applicability of criminal legislation of Montenegro to a national of Montenegro who commits a criminal offence abroad

Article 136

Criminal legislation of Montenegro shall also be applicable to a national of Montenegro if s/he commits abroad other criminal offence than those referred to in Article 135 of the present Code, should s/he be apprehended in the territory of Montenegro or extradited to the state union of Serbia and Montenegro (hereinafter referred to as: SMN).

Applicability of criminal legislation of Montenegro to a foreigner who commits a criminal offence abroad

Article 137

(1) Criminal legislation of Montenegro shall also be applicable to a foreigner who, outside the territory of Montenegro, commits a criminal offence against it or its national for criminal offences other than those referred to in Article 135 of the present Code, should s/he be apprehended in the territory of Montenegro or extradited to the SMN.

(2) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits abroad, against a foreign country or a foreigner, a criminal offence for which under the law of the country it was committed in, a prison penalty may be pronounced in duration of five years or more, should s/he be caught in the territory of Montenegro but not extradited to a foreign country. If not otherwise prescribed by the present Code, a court of law may not in such an instance pronounce a penalty more severe than one prescribed by the law of the country in which the criminal offence was committed.

Special requirements for criminal prosecution

Article 138

(1) Should in the event referred to in Article 134 of the present Code, a criminal procedure has been instituted or completed in a foreign country, criminal prosecution in Montenegro shall be undertaken solely upon the approval of the Supreme State Prosecutor of Montenegro.

(2) In the event referred to in Article 134 of the present Code, criminal prosecution of foreigner may, on condition of reciprocity, be transferred to a foreign country.

(3) In the event referred to in Articles 136 and 137 of the present Code, prosecution shall not be undertaken:

- 1) if a perpetrator has completed serving a penalty adjudicated to him/her abroad;
- 2) if a perpetrator has been released abroad by a final judgment or if his/her penalty has been statute-barred or pardoned;
- 3) if a corresponding security measure has been applied abroad against a mentally incompetent perpetrator;

4) if, under the foreign law, prosecution could be undertaken for a criminal offence on request of an injured party, but such a claim has not been filed.

(4) In the event referred to in Articles 136 and 137 of the present Code, prosecution shall take place solely when the criminal offence in question is also punishable by the law of the country in which it was committed. When in the event referred to in Articles 136 and 137, Paragraph 1 of the present Code, under the law of the country in which the criminal offence was committed, the criminal offence in question is not punishable, criminal prosecution may be undertaken solely if approved so by the Supreme State Prosecutor.

(5) In the event referred to in Article 137, Paragraph 2 of the present Code, if the offence in question at the time of perpetration is regarded a criminal offence in line with general legal principles recognized by the international law, prosecution may be undertaken in Montenegro upon the approval of the Supreme State Prosecutor, regardless of the law of the country in which the criminal offence was committed.

Credit of detention and of penalty served abroad

Article 139

Detention, any other deprivation of freedom related to a criminal offence, deprivation of freedom during an extradition process, as well as a penalty served by a perpetrator under the sentence of a foreign court, shall be credited to the penalty pronounced by a national court for the same criminal offence; should the penalties be not of the same kind, such crediting shall be based on the court's appraisal.

Applicability of law of a member state by which is a criminal offence envisaged

Article 140

(1) Criminal legislation of a member state by which is a criminal offence envisaged, shall be applicable to anyone who commits in the territory of that member state a criminal offence envisaged by its criminal legislation, regardless of where the perpetrator is tried for the offence in question.

(2) If a criminal offence envisaged by criminal legislation of a member state was committed in the territories of both member state s, shall be applied the law of the member state in which the perpetrator is tried.

(3) For criminal offences envisaged by the law of a member state, when such offences were committed outside the territory of the SMN or on a national ship or in a national aircraft while being outside the state territory of the SMN, shall be applied the law of the member state in which the perpetrator is tried.

Applicability of the general part of the present Code

Article 141

Provisions of the general part of the present Code shall be applicable to all criminal offences prescribed by this Code or other law.

CHAPTER THIRTEEN

DEFINITIONS OF THE TERMS

Definitions which apply to this Code

Article 142

(1) The territory of Montenegro shall be deemed to embrace the land territory, coastal sea and water surfaces within its borders, as well as air space above it.

(2) Criminal legislation of Montenegro shall be deemed to mean the present Code, as well as all other criminal provisions embraced by other laws of Montenegro.

(3) Persons in an official capacity shall be deemed to mean:

1) a person who performs official duties with state authorities,

2) elected, appointed or designated person in a state authority, a local self-government body or a person who performs on a permanent or temporary basis official duties or official functions in these bodies,

3) a person in an institution, enterprise/company or other organization assigned to whom is performance of public powers, who decides on rights, obligations or interests of natural and legal persons or public interests,

4) an official should be understood the person who is factually supplied with a certain official duties or other tasks,

5) a military person, with the exception of provisions of Chapter Thirty Four (CRIMINAL OFFENCES AGAINST OFFICIAL DUTY) of the present Code.

(4) A foreign person acting in an official capacity shall be deemed a person who is a member of a legislative, executive or judicial authority of a foreign state, a public official or an official of an international organization and its bodies, justices and other officials of an international court.

(5) A responsible person represents the owner of an enterprise/company or other organization, or a person with an enterprise, institution or other organization assigned to whom is, by virtue of his function, funds invested or his powers, a specific scope of duties in the management of property, production or other business activity or in supervision thereof or who is in charge of specific tasks. A responsible person shall also be deemed a person acting in an official capacity, in the event of criminal offences for which a responsible person is designated as a perpetrator, such offences being not envisaged by the present Code in the Chapter dealing with criminal offences against official duties i.e. as criminal offences of a person acting in an official capacity.

(6) A military person shall mean a professional soldier (professional senior and lower military officer, officer by contract, senior and lower officer by contract and soldier by contract), soldier serving his military obligation, student of a military academy, student of a military high school, person from reserve military forces while on military duty as a military servant, as well as a civil person who performs a specific military duty.

(7) When a person acting in an official capacity, a responsible person or a military person is designated as a perpetrator of specific criminal offences, persons referred to in Paragraphs 3, 5 and 6 of this Article can be perpetrators of these acts, unless the nature of an individual act or an individual regulation implies that the perpetrator can be solely someone of these persons.

(8) A child shall be considered a person who has not reached the age of fourteen.

(9) A juvenile / minor shall be considered a person who has reached the age of fourteen, but not the age of eighteen.

(10) An underage person is a person who has not yet reached the age of eighteen.

(11) Perpetrators / offenders shall be deemed to be the persons who have committed a criminal offence, as well as co-perpetrators, instigators and aides.

(12) Force shall also mean the use of hypnosis or intoxicating means with the purpose to bring someone against his will to the state of unconsciousness or inability to give resistance.

(13) Elections are to be understood the elections for the Assembly of SMN, President of the State union of SMN, Assembly of the Republic of Montenegro, President of the Republic of Montenegro, local self-government bodies and other elections called for and conducted on the basis of the Constitution and law.

(14) Referendum is pronouncement of citizens where they decide on the issues specified by the Constitution and law.

(15) Narcotics are substances and preparations declared by relevant regulations to be narcotics.

(16) A movable thing is also considered to be every generated or collected energy for production of light, heat or for movement, as well as a telephone impulse, a computer datum and a computer program.

(17) A computer data is deemed to be a presented information, knowledge, fact, concept or order that is entered, processed or memorized, or has already been entered, processed or memorized in a computer or computer network.

(18) A computer network is considered to be an assembly of mutually interconnected computers that communicate with each other by exchanging data and information.

(19) A computer program is defined as a regulated assembly of orders the aim of which is to control the computer operation, as well as to solve a specific task by means of a computer.

(20) A computer virus is a computer program or some other assembly of orders entered into a computer or computer network designed to multiply itself and so act upon other programs or data in a computer or a computer network by adding that program or assembly of orders to one or more computer programs or data.

(21) A business entity is deemed to be an enterprise/company, other legal person that conducts a business activity, as well as an entrepreneur. A legal person that, in addition to its primary activity, also conducts a business activity, shall be deemed a business entity solely when engaging in that business activity.

(22) A protected natural wealth is deemed also to be a wealth that, under regulations on protection of natural wealth, enjoys such a protection.

(23) A cultural good is deemed also to be a that, under regulations on preservation of cultural goods, enjoys such a protection, as well as a part of cultural good and protected environment of an immovable cultural good.

(24) Money means both metal coins or paper money or money made of some other material that is statutory prescribed to be in circulation in the member states of SMN or a foreign country.

(25) Value symbols are deemed to be also foreign value symbols.

(26) A motor vehicle is every transportation means with a motor drive used in the land, water and air transportation.

(27) As document shall be deemed any object that is suitable for or designated to serve as an evidence of a specific fact of relevance for legal relations, as well as a computer datum.

(28) A n act, letter, mail and document can also be in an electronic form.

(29) A family or a family unit are also deemed to be former marital partners and their children, as well as parents of former marital partners.

(30) The term “shall not be punished” means that there exists no criminal offence in that event. .

(31) When an imperfective verb is used to express an action of a criminal offence, it shall mean that the offence is committed if the action is done once or several times.

SPECIAL PART

CHAPTER FOURTEEN

CRIMINAL OFFENCES AGAINST LIFE AND BODY

Murder

Article 143

Anyone who deprives of life other person shall be sentenced to five to fifteen years of imprisonment.

Grave types of murder

Article 144

Sentenced to imprisonment of at least ten years or a thirty-year prison penalty shall be anyone who:

- 1) deprives of life other person in a cruel or perfidious manner,
- 2) deprives of life other person behaving in an unscrupulous and violent manner,
- 3) deprives of life other person and thereby intentionally endanger somebody else's life,
- 4) deprives of life other person out of lucrativeness, for the purpose of perpetration or concealment of other criminal offence, from unscrupulous revenge or other vicious motives,
- 5) deprives of life a person acting in an official capacity or a military person while serving or related to serving an official duty,
- 6) deprives of life a child or a pregnant woman,
- 7) deprives of life a member of own family or a family community after molestation,
- 8) intentionally deprives of life several persons, such offences being not regarded as a murder committed while in the state of strong excitation, an infanticide or a homicide from compassion.

Manslaughter committed while in the state of strong excitation

Article 145

Anyone who commits a murder suddenly brought, without his/her own guilt, into the state of strong excitation by an attack, assault or heavy insult by the murdered, shall be sentenced to one to eight years of imprisonment.

Infanticide

Article 146

A mother who deprives of life her child at birth, in the course of or immediately after delivery, while in the state of disorder caused by delivery, shall be sentenced to six months to five years of imprisonment.

Deprivation of life from compassion

Article 147

Anyone who deprives of life an adult person from compassion due to his serious health condition, or at his serious and explicit request, shall be sentenced to six months to five years of imprisonment.

Deprivation of life by negligence

Article 148

Anyone who deprives of life other person by negligence, shall be sentenced to six months to five years of imprisonment.

Incitement to suicide and aid in the commission of suicide

Article 149

(1) Anyone who incites other person to suicide or aid him in committing suicide, and should suicide be committed or attempted, shall be sentenced to one to eight years of imprisonment.

(2) Anyone who aids other person in committing suicide subject to conditions referred to in Article 147 of the present Code, and should suicide be committed or attempted, shall be sentenced to three months to five years of imprisonment.

(3) Anyone who commits the act referred to in Paragraph 1 of this Article against a juvenile or a person in the state of substantially diminished mental capacity, shall be sentenced to two to ten years of imprisonment.

(4) Should the act referred to in Paragraph 1 of this Article be committed against a child or a mentally incapable person, the perpetrator shall be sentenced in line with provisions of Article 144 of the present Code.

(5) Anyone who treats with cruelty or brutality other person subordinate or dependant on him, and should the person in question due to such treatment, commit or attempt suicide that can be attributed to the offender's negligence, shall be sentenced to six months to five years of imprisonment.

Illegal termination of pregnancy

Article 150

(1) Anyone who, contrary to the regulations governed by which are abortions, carries out an abortion, commences with carrying out an abortion or assists a pregnant woman in termination of her pregnancy with her consent, shall be sentenced to three months to three years of imprisonment.

(2) Anyone who carries out or commences with carrying out an abortion without consent of the pregnant woman and, if she is younger than 16, without her consent and a written agreement by her parents, adoptive parents or guardians, shall be sentenced to one to eight years of imprisonment.

(3) Should it happen that, due to the acts referred to in Paragraphs 1 and 2 of this Article, the woman subjected to abortion die or her health be heavily impaired or another serious bodily injury be inflicted upon her, the offender shall be sentenced for the offence referred to in Paragraph 1 of this Article to six months to six years of imprisonment and for the offence referred to in Paragraph 2 of this Article to two to twelve years of imprisonment.

Serious bodily injury

Article 151

(1) Anyone who inflicts heavy bodily harm to other person or impairs seriously his/her health, shall be sentenced to six months to five years of imprisonment.

(2) Anyone who inflicts heavy bodily harm to other person or impairs his/her health so seriously that the injured person's life is endangered or any vital part of his body destroyed or permanently or considerably damaged or weakened, or the injured person's permanent ability to work or permanent and serious impairment of his health or deformation is caused, shall be sentenced to one to eight years of imprisonment

(3) Should it happen that, due to the acts referred to in Paragraphs 1 and 2 of this Article, the injured person has died, the perpetrator shall be sentenced to two to twelve years of imprisonment.

(4) Anyone who commits the act referred to in Paragraphs 1 and 2 of this Article through negligence, shall be sentenced to imprisonment not exceeding three years.

(5) Anyone who commits the act referred to in Paragraphs 1 to 3 of this Article, while in the state of strong excitation caused without his own guilt by an attack, an assault or a heavy insult by the injured, shall be sentenced to imprisonment not exceeding three years for the act referred to in Paragraph 1, three months to four years for the act referred to in Paragraph 2, and six months to five years for the act referred to in Paragraph 3.

Light bodily injury

Article 152

(1) Anyone who inflicts a light bodily injury upon other person or impair his/her health less seriously, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should such an injury be inflicted by weapons, dangerous tools or other means suitable for inflicting serious bodily injuries or seriously impairing health, the perpetrator shall be sentenced to imprisonment not exceeding three years.

(3) A court of law may pronounce a judicial admonition to the perpetrator referred to in Paragraph 2 of this Article, should he/she be provoked by rude or vulgar conduct of the injured party.

(4) Prosecution for the offence referred to in Paragraph 1 of this Article shall be initiated against a private action.

Participation in affrays

Article 153

Anyone who participates in an affray in which someone has been deprived of life or other person has been seriously wounded, shall be sentenced on the grounds of participation to three months to three years of imprisonment.

Threat by dangerous tools in affrays or brawls

Article 154

Anyone who, in affrays or brawls, reaches for weapons, dangerous tools or other means suitable for causing serious bodily injuries or heavy impairment of health, shall be sentenced to a fine or imprisonment not exceeding six months.

Exposure to danger

Article 155

(1) Anyone who leaves other person without help in the state and under circumstances dangerous to life or health caused by himself/herself, shall be sentenced to three months to three years of imprisonment.

(2) Should it happen that, due to the act referred to in Paragraph 1 of this Article, the abandoned person's health be seriously endangered or other serious bodily injury be inflicted upon him/her, the perpetrator shall be sentenced to one to five years of imprisonment.

(3) Should, due to the act referred to in Paragraph 1 of this Article, the abandoned person die, the perpetrator shall be sentenced to one to eight years of imprisonment.

Abandonment of a disabled person

Article 156

(1) Anyone who leaves a disabled person committed to his custody or a disabled person he is anyway obliged to take care of, without help in the condition and under circumstances dangerous to life or health, shall be sentenced to three months to three years of imprisonment.

(2) Should it happen that, due to the act referred to in Paragraph 1 of this Article, the abandoned person's health be seriously impaired or other serious bodily injury be inflicted upon him, the perpetrator shall be sentenced to one to five years of imprisonment.

(3) Should, due to the act referred to in Paragraph 1 of this Article the abandoned person die, the perpetrator shall be sentenced to one to eight years of imprisonment.

Denial of help

Article 157

(1) Anyone who denies to help other person in the state of an immediate danger to life though s/he could have done it with no threat to himself or other person, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should, due to denial of help, the health of a person in the state of an immediate danger to life be seriously impaired or other serious bodily injury be inflicted upon such a person, the perpetrator shall be sentenced to a fine or imprisonment not exceeding two years.

(3) Should it happen that, due to denial of help, the person in the state of an immediate danger to life die, the perpetrator shall be sentenced to three months to three years of imprisonment.

CHAPTER FIFTEEN

CRIMINAL OFFENCES AGAINST FREEDOMS AND RIGHTS OF MAN AND THE CITIZEN

Infringement of the right to free use of language and alphabet

Article 158

Anyone who, contrary to the regulations governing the use of language and alphabet of peoples or members of national and ethnic groups living in SMN denies or restricts to citizens the use of their mother tongue or alphabet when exercising their rights or addressing authorities or organizations, shall be sentenced to a fine or imprisonment not exceeding one year.

Infringement of equality of citizens

Article 159

(1) Anyone who, due to national affiliation or affiliation to an ethnic group, race or confession, or due to absence of such an affiliation or due to differences in political or other beliefs, sex, language, education, social status, social origin, property or other personal status denies or restricts the rights of man and the citizen prescribed by the Constitution, laws or other regulations or general enactments or recognized by international treaties or, on the grounds of such differences, grants privileges or exemptions, shall be sentenced to imprisonment not exceeding three years.

(2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity while performing his/her duties, s/he shall be sentenced to three months to five years of imprisonment.

Infringement of the right to expression of national or ethnic affiliation

Article 160

(1) Anyone who prevents other persons to express their national or ethnic affiliation or culture, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Sentenced to the punishment referred to in Paragraph 1 of this Article shall also be every person who coerces other person to declare his/her national or ethnic affiliation.

(3) Should the act referred to in Paragraphs 1 and 2 of this Article be committed by a person acting in an official capacity during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Infringement of freedom of confession of religion and performance of religious rites

Article 161

(1) Anyone who prevents or restricts freedom of confession or performance of religion, shall be sentenced to a fine or imprisonment not exceeding two years.

(2) Sentenced to the punishment referred to in Paragraph 1 of this Article shall also be anyone who prevents or disturbs performance of religious rites.

(3) Anyone who coerces others to declare their religious beliefs shall be sentenced to a fine or imprisonment not exceeding one year.

(4) A person acting in an official capacity who commits the act referred to in Paragraphs 1 to 3 of this Article shall be sentenced to imprisonment not exceeding three years.

Unlawful deprivation of freedom

Article 162

- (1) Anyone who arrests, keeps in detention or in any other manner unlawfully deprives others of freedom or limits their freedom of movement, shall be sentenced to imprisonment not exceeding one year.
- (2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity through abuse of his/her function or powers, shall be sentenced to imprisonment of six months to five years.
- (3) Should the act of unlawful deprivation of freedom be longer than thirty days, or should it be conducted in a cruel manner, or should the health of a person unlawfully deprived of freedom in that manner be heavily impaired or other serious consequences occur, the perpetrator shall be sentenced to one to eight years of imprisonment.
- (4) Should it happen that, due to the acts referred to in Paragraphs 1 and 3 of this Article, a person illegally detained dies, the perpetrator shall be sentenced to two to twelve years of imprisonment.
- (5) Sentence shall also be pronounced for an attempt of offences referred to in Paragraph 1 of this Article.

Infringement of freedom of movement and residence

Article 163

- (1) Anyone who denies or restricts freedom of movement or residence in the territory of SMN to the citizen of Montenegro, shall be sentenced to a fine or imprisonment not exceeding one year.
- (2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Abduction by force

Article 164

- (1) Anyone who, by use of force, threat, deceit or in other manner takes away or keeps someone with the intention to extort money or other property gain from that person or others or coercing that person or others to do or not to do something or to endure something, shall be sentenced to one to eight years of imprisonment.
- (2) Anyone who, for the purpose of accomplishing the aim of abduction, threatens by murder or serious bodily injuries to the kidnapped person, shall be sentenced to two to ten years of imprisonment.
- (3) Should the kidnapped person be kept more than ten days or treated with cruelty or should the kidnapped person's health be heavily impaired or other serious consequences occur, or should the offence referred to in Paragraph 1 of this Article be committed against a juvenile, the perpetrator shall be sentenced to two to twelve years of imprisonment.
- (4) Should it happen that, due to the act referred to in Paragraphs 1, 2 and 3 of this Article, the kidnapped person dies or should the act be committed by several persons in an organized manner, the perpetrator shall be sentenced to five to fifteen years of imprisonment.

Coercion

Article 165

- (1) Anyone who by use of force or threat compels someone to do or not to do something or to endure something, shall be sentenced to three months to three years of imprisonment.
- (2) Anyone who commits the act referred to in Paragraph 1 of this Article with cruelty or by threat of murder or serious bodily injuries or abduction, shall be sentenced to six months to five years of imprisonment.
- (3) Should it happen that, due to the act referred to in Paragraphs 1 and 2 of this Article, a serious bodily injury be inflicted or other serious consequences occur, the perpetrator shall be sentenced to one to eight years of imprisonment.
- (4) Should, due to the act referred to in Paragraphs 1 and 2 of this Article, the person under coercion die, or should the act be committed by several persons in an organized manner, the perpetrator shall be sentenced to two to twelve years of imprisonment.

Extortion of confession or statement

Article 166

(1) A person acting in an official capacity who, during performance of his/her duties, uses force or threat or other inadmissible means or inadmissible manner with the intention to extort a confession or another statement from an accused, a witness, an expert or other person shall be sentenced to three months to five years of imprisonment.

(2) Should the extortion of confession or statement be accompanied by heavy violence, or should extremely serious consequences occur for an accused in the criminal procedure due to extorted confession, the perpetrator shall be sentenced to two to ten years of imprisonment.

Maltreatment and torture

Article 167

(1) Anyone who maltreats others or treats them in the manner that is humiliating and degrading, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Anyone who causes great suffering of others with the aim to obtain an information or confession from them or a third party, or to intimidate them or a third party, or to exert pressure on them, or who does it from some other motives grounded on any form of discrimination, shall be sentenced to imprisonment not exceeding three years.

(3) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity during performance of his/her duties, that person shall be sentenced to one to five years of imprisonment.

Threat to security

Article 168

(1) Anyone who endangers security of other person under threat of an attack to his life or body or to a person close to him, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Anyone who commits the act referred to in Paragraph 1 of this Article against more than one person, or the act that have caused anxiety of citizens or other serious consequences, shall be punished to three months to three years of imprisonment.

Infringement of inviolability of home

Article 169

(1) Anyone who enters without permission a somebody else's dwelling or other premises or does not leave the dwelling or other premises on the tenant's request, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

(3) Punished shall also be an attempt of the act referred to in Paragraphs 1 and 2 of this Article.

Illegal search

Article 170

A person in an official capacity who, during performance of his/her duties, conducts the search of dwellings, other premises , or persons illegally, shall be sentenced to imprisonment not exceeding three years.

Unauthorized disclosure of secret

Article 171

(1) A lawyer, a physician or other person who discloses without permission a secret that has come to his/her knowledge during performance of his/her professional duties, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) No one who discloses a secret in a public or in other person's interest, that being of larger significance than the interest of keeping secrets, shall be punished for the act referred to in Paragraph 1 of this Article.

Infringement of privacy of mail and other means of communications

Article 172

(1) Anyone who without authorization opens a somebody else's letter, telegram or other closed correspondence or means of communications or infringes in any other manner their inviolability or who withholds, conceals, destroys or delivers to other person a

somebody else's letter, telegram or other means of communications or who infringes privacy of electronic mail, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Sentenced to the penalty referred to in Paragraph 1 of this Article shall also be a person who communicates to other the contents he has come to the knowledge of by infringement of privacy of a somebody else's letter, telegram or other closed correspondence or other means of communications or who makes use of such contents.

(3) Should the act referred to in Paragraphs 1 and 2 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Unauthorized wiretapping and recording

Article 173

(1) Anyone who unauthorized taps by special listening devices or who records a conversation, statement or any other information not intended for his/her use, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Sentenced to the punishment referred to in Paragraph 1 of this Article shall also be a person who enables an unknown person to be informed about the conversation, statement or other information wiretapped i.e. audiorecorded without permission.

(3) Should the act referred to in Paragraphs 1 and 2 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Unauthorized photographing

Article 174

(1) Anyone who makes a photographic, film, video or other recording of someone and thereby considerably violates the privacy of his life or who delivers or shows such recordings to a third party or enables a third party to come to the knowledge of such recordings, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Unauthorized publication and presentation of a somebody else's written texts, portraits and recordings

Article 175

(1) Anyone who publishes or publicly presents a written text, a portrait, a photograph, a film or a phonogram of a personal character without consent of a person who has drawn up the written text or to whom it is related i.e. without consent of a person shown on the portrait, photograph or film or the voice of whom is recorded on a phonogram or without consent of other person the consent of whom is required by law, and thereby considerably violates the privacy of life of that person, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Unauthorized collection of personal data

Article 176

(1) Anyone who provides, communicates to others or uses without permission personal data that are collected, processed and utilized in line with law, for purposes other than those for which they were compiled, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Sentenced to the penalty referred to in Paragraph 1 of this Article shall also be a person who, in contradiction with law, collects personal data or utilizes so collected data.

(3) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Infringement of the right to legal remedies

Article 177

(1) Anyone who prevents others to exercise the right to submit a plea, petition, report, action, lodge a complaint, appeal, motion or other legal remedy, as well as other submission, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Infringement of freedom of speech and public appearance

Article 178

(1) Anyone who denies or restricts freedom of speech or public appearance of other person s in an unlawful manner, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Prevention of printing and distribution of printed matters, and broadcasting

Article 179

(1) Anyone who prevents or disturbs, without permission, printing, recording, sale or distribution of books, magazines, newspapers, audio and video cassettes or other printed or recorded matters, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Sentenced to the penalty referred to in Paragraph 1 of this Article shall also be a person who prevents or disturbs, without permission, broadcasting of radio or TV programs.

(3) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Prevention of publication of responses and rectifications

Article 180

Anyone who, contrary to the final decision by a court of law, rejects or prevents to publicize a response or rectification of an incorrectly published information which violates someone's rights or interests, shall be sentenced to a fine or imprisonment not exceeding one year.

Prevention of public gathering

Article 181

(1) Anyone who, by use of force, threat, deceit or in other manner prevents or disturbs calling of or holding of a public gathering organized in line with the law, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in Paragraph 1 of this Article be committed by a person acting in an official capacity, during performance of service, that person shall be sentenced to imprisonment not exceeding three years.

Prevention of political, trade union or other association and activities

Article 182

Anyone who by violating law knowledgeably or in any other unlawful manner prevents or disturbs political, trade union or other association or activities of citizens or activities of their political, trade union or other organizations shall be sentenced to a fine or imprisonment not exceeding one year.

Prosecution for criminal offences against freedoms and rights of man and the citizen

Article 183

Prosecution for offences referred to in Article 168, Paragraph 1, Article 169, Paragraph 1, Article 172, Paragraphs 1 and 2, Article 173, Paragraphs 1 and 2, Article 174, Paragraph 1, Article 175, Paragraph 1, Article 176, Paragraphs 1 and 2 and Article 177, Paragraph 1 of the present Code, shall be conducted against a private claim.

CHAPTER SIXTEEN

CRIMINAL ACTS AGAINST ELECTORAL RIGHTS

Violation of right to be elected

Article 184

Anyone who violates law or in any other unlawful manner prevents a person or disturbs a person to exercise his/her right to be elected shall be punished by a fine or imprisonment sentence not exceeding one year.

Violation of voting right

Article 185

(1) Anyone who with intention to prevent s another person in exercising voting right s/he is entitled to, unlawfully fails to register that person in voters' register or removes his/her name from that register or in any other unlawful manner prevents or disturbs a person to cast a vote, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Punishment referred to in Paragraph 1 of this Article shall be imposed on anyone who unlawfully registers in voters' register someone so as to enable him/her to cast a vote, or enables him/her to cast a vote in any other unlawful way if he/she is not entitled to such a right.

Violation of exercising free will at voting

Article 186

(1) Anyone who uses force, threat, or in any other unlawful manner uses coercion or influences a person at elections or at a referendum to vote or not to vote in favour of or against a particular person, electoral list or proposal shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Punishment as of Paragraph 1 of this Article shall be imposed on anyone who requires or accepts a present or some other personal benefit for himself or for another in order to vote or not to vote in favour or against a particular person.

(3) Present or other benefit accepted shall be confiscated.

(4) If an act as of Paragraphs 1 and 2 of this Article is performed by a member of the electoral board or some other person performing duties pertaining to voting, he/she shall be punished by imprisonment sentence not exceeding three years.

(5) Anyone who after the elections or a referendum, invites a voter to assume responsibility in relation to voting or requires him/her to state who s/he voted for, why he did or did not vote, shall be punished by a fine or imprisonment sentence not exceeding one year.

Abuse of the right to vote

Article 187

(1) Anyone who at elections or at a referendum votes instead of another person under his/her name or at the same elections votes more than once or uses more than one ballot paper, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) A member of the electoral board who enables another to commit an act referred to in Paragraph 1 of this Article shall be punished by a fine or maximum two year imprisonment sentence.

Composing inaccurate voters' lists

Article 188

Anyone who with the intention to influence the results of elections or a referendum composes an inaccurate voters' list, shall be punished by a fine or imprisonment sentence not exceeding three years.

Obstructing elections

Article 189

(1) Anyone who by force, threats or in any other unlawful manner obstructs or disturbs elections at a polling station shall be punished by imprisonment sentence not exceeding three years.

(2) Anyone who obstructs voting by causing disorder at the polling station, due to which the elections are interrupted, shall be punished by a fine or prison sentence not exceeding two years.

Obstructing the monitoring of voting

Article 190

Member of the electoral board who obstructs or disturbs the monitoring of the course of elections or determining of the results of voting by a person entitled to perform such duty according to the law or a decision of the competent state authority shall be punished by a fine or imprisonment sentence not exceeding one year.

Violating the secrecy of voting

Article 191

(1) Anyone who at elections or a referendum violates the secrecy of voting, shall be punished by a fine or imprisonment sentence not exceeding six months.

(2) If an act referred to in Paragraph 1 of this Article is committed by a member of the electoral board or some other person performing duties pertaining to voting, shall be punished by a fine or imprisonment sentence not exceeding two years.

Falsifying the results of voting

Article 192

A member of the body for holding elections, or a referendum or some other person performing a duty pertaining to voting, who by adding or taking away ballot papers or votes upon counting, or in some other way alters the number of given ballot papers or votes or publishes untrue result of voting, shall be punished by a fine or maximum three year s of imprisonment sentence.

Destroying documentation on voting

Article 193

(1) Anyone who destroys, damages, takes away or conceals a ballot paper or some other document on voting at elections or at a referendum, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) If an act referred to in Paragraph 1 of this Article is committed by a member of the electoral board or some other person performing her/his duty pertaining to voting, shall be punished by an imprisonment sentence of three months to three years.

Grave offences against voting rights

Article 194

(1) If as a result of acts referred to in Articles 185, 186, 187, 189, 190, 191, 192 and 193 of the present Code public peace and order are disturbed or property imperilled to a larger extent, or life of a number of people brought into danger, the offender shall be punished by an imprisonment sentence of six months to five years.

(2) If as a result of acts referred to in Articles 185, 186, 187, 189, 190, 191, 192 and 193 of the present Code a person has suffered a serious physical injury or property has been damaged to a larger extent, the offender shall be punished by imprisonment sentence ranging of one to ten years.

(3) If acts referred to in Articles 185, 186, 187, 189, 190, 191, 192 and 193 of the present Code resulted in death of one or more persons, the offender shall be punished by a minimum three year imprisonment sentence.

CHAPTER SEVENTEEN

CRIMINAL ACTS AGAINST HONOUR AND REPUTATION

Insult

Article 195

(1) Anyone who insults other person shall be punished by a fine in the amount of € 1.200 to 4.000.

(2) If an act referred to in Paragraph 1 of this Article is performed through media or other similar means or at some public gathering, the perpetrator shall be punished by a fine in the amount of € 3.000 to 10.000.

(3) If the insulted person returned the insult, the court may punish or free both sides or one side from punishment.

(4) Any person who commits an act referred to in Paragraphs 1 to 3 of this Article shall not be liable to any punishment whatsoever if the statement is given within serious critique in a scientific, literary or artistic work, performance of a public service, or journalistic writing, political activity, or to defend a right or protect justifiable interests, if the manner in which the statement is expressed or other circumstances indicate it is not done on the grounds of discrediting a person.

Defamation

Article 196

(1) Anyone who speaks or transmits untrue information about someone that may harm his/her honour and reputation shall be punished by a fine in the amount of € 3.000 to 10.000.

(2) If an act referred to in Paragraph 1 of this Article is performed through media or other similar means or at a public gathering, s/he shall be punished by a fine in the amount of € 5.000 to 14.000.

(3) If an untrue information said or transmitted has caused or could have caused significant harm to the injured party, the perpetrator shall be punished by a fine in the minimum amount of € 8.000.

(4) If the accused proves to have had founded reasons to believe in truthfulness of what s/he spoke or transmitted, s/he shall not be punished for charged with defamation, but s/he can be punished for insult (Article 195), if the conditions for the existence of such an act have been met.

Spreading information about private and family life

Article 197

(1) Anyone who spreads or transmits information about personal or family life of a person and thereby potentially harms his/her honour or reputation shall be punished by a fine in the amount of € 3.000 to 10.000.

(2) If an act referred to in Paragraph 1 of this Article is performed through media or other similar means or at a public gathering, the perpetrator shall be punished by a fine in the amount of € 5.000 to 14.000.

(3) If what is being said or transmitted has entailed or could have entailed serious consequences for the injured party, the perpetrator shall be punished by a fine in the minimum amount of € 8.000.

(4) If the accused person has spread or transmitted information about personal or family life within performing a official duty, journalist profession, defending a right or protecting justified interest, s/he shall not be punished provided s/he proves that the information is true or that s/he had founded reasons to believe that the information s/he disclosed or transmitted is true.

(5) The truthfulness or untruthfulness of what is being said or transmitted pertaining to personal or family life is not liable to any evidence establishing procedure, except in cases referred to in Paragraph 4 of this Article.

Ruining the reputation of SMN and of a member state

Article 198

Anyone who publicly exposes SMN or one of its member states, its flag, coat of arms or anthem to mockery, shall be punished to a fine in the amount of € 3.000 to 10.000.

Violation the reputation of nations, national and ethnic groups of SMN

Article 199

Anyone who publicly exposes a nation, national or ethnic group living in SMN to mockery, shall be punished by a fine in the amount of € 3.000 to 10.000.

Violation of the reputation of a foreign state or an international organization

Article 200

(1) Anyone who exposes to mockery a foreign state, its flag, coat of arms or its anthem, shall be punished by a fine in the amount of € 3.000 to 10.000.

(2) By punishment referred to in Paragraph 1 of this Article shall be punished the one who publicly exposes to mockery the United Nations Organization, International Red Cross or some other international organization of which SMN or Montenegro is a member.

Impunity for criminal acts referred to in Articles 198 to 200

Article 201

Perpetrator of an act referred to in Articles 198 to 200 of the present Code shall not be punished if a statement has been given within serious critique in a scientific, literary or artistic work, or within performance of an official duty, journalistic writing, political activity,

defence of a right or protection of justifiable interests, provided that the way of expression or other circumstances prove that s/he has not done it with intention of belittling or if s/he proves the truthfulness of his/her claims or that he had founded reason to believe in veracity of what s/he was saying or transmitting.

Prosecution for offences against honour and reputation

Article 202

- (1) Prosecution for acts referred to in Articles 195 to 197 of the present Code is undertaken by a private claim.
- (2) If the offences referred to in Articles 195 to 197 of the present Code are done to a person that passed away, prosecution is undertaken by a private action of his/her spouse or person who lived with the deceased in a permanent extramarital community, a direct relative, adoptive parent, adopted child, brother or sister of the deceased person.
- (3) Prosecution for an offence referred to in Article 200 of the present Code is undertaken after obtaining a permit of the Supreme State Prosecutor of the Republic of Montenegro .

Promulgation of the sentence for criminal acts against honour and reputation

Article 203

When pronouncing a sentence for acts referred to in Articles 195 to 197 of the present Code done through media or other similar means or at a public gathering the court may, on the request of the prosecutor, decide to publish the court sentence in its entirety or as an excerpt through the same medium and at the expense of the convicted person.

CHAPTER EIGHTEEN

CRIMINAL ACTS AGAINST SEXUAL FREEDOM

Rape

Article 204

- (1) Anyone who forces another person to sexual intercourse or an act equal to it by using coercion or by threats to attack the life or body of that or some other person, shall be punished by an imprisonment penalty of two to ten years.
- (2) If a person commits an act referred to in Paragraph 1 of this Article against somebody under threats of doing something that would harm his/her honour or reputation or by serious threat of some other severe evil, s/he shall be punished by an imprisonment sentence of one to eight years.
- (3) If due to acts referred to in Paragraphs 1 and 2 of this Article a severe bodily injury is inflicted on a person, or if the act is made by more persons in an especially cruel manner or in an especially humiliating manner, or to a juvenile, or the consequence of the act is pregnancy, the perpetrator shall be punished by an imprisonment sentence of three to fifteen years.
- (4) If due to acts referred to in Paragraphs 1 and 2 of this Article a person died or the act is done to a child, the perpetrator shall be punished by an imprisonment sentence of five to eighteen years.

Sexual intercourse with a helpless person

Article 205

- (1) Anyone who performs sexual intercourse or an equal act taking advantage of a person's mental illness, mental retardation or other mental disorder, disability or some other state of that person due to which s/he is not capable of resistance, shall be punished by an imprisonment sentence of one to ten years.
- (2) If due to acts referred to in Paragraph 1 of this Article a severe bodily injury is inflicted on a disabled person or if the act is committed by more persons or in a specially cruel or humiliating manner or it is done to a juvenile or the act resulted in a pregnancy, the perpetrator shall be punished by an imprisonment sentence of two to twelve years.
- (3) If due to an act referred to in Paragraphs 1 and 2 of this Article a person suffering the act died or it is done to a child, the perpetrator shall be punished by an imprisonment sentence of five to eighteen years.

Sexual intercourse with a child

Article 206

(1) Anyone who performs sexual intercourse or an equal act with a child shall be punished by an imprisonment sentence of one to ten years.

(2) If due to an act referred to in Paragraph 1 of this Article a severe bodily injury is inflicted to a person, or the act is performed by more persons or it resulted in pregnancy, the perpetrator shall be punished by an imprisonment sentence of two to twelve years.

(3) If due to acts referred to in Paragraphs 1 and 2 of this Article a child died, the perpetrator shall be punished by an imprisonment sentence of five to eighteen years.

(4) The perpetrator of an act referred to in Paragraph 1 of this Article shall not be punished provided that there exists no larger difference between the perpetrator and the child in respect to their mental and physical development.

Sexual intercourse by abuse of position

Article 207

(1) Anyone who by abuse of his/her position induces to sexual intercourse or an equal act a person who is in a subordinate or dependent position to him, shall be punished by an imprisonment sentence of three months to three years.

(2) A teacher, instructor, guardian, adoptive parent, stepfather, stepmother or some other person who by abuse of his/her position or authorities performs sexual intercourse or an equal act with a minor entrusted to him for teaching, education, custody and taking care, shall be punished by an imprisonment sentence of one to ten years.

(3) If an act referred to in Paragraph 2 of this Article is performed over a child, the perpetrator shall be punished by an imprisonment sentence of two to twelve years.

(4) If an act referred to in Paragraphs 1 to 3 of this Article resulted in pregnancy, the perpetrator shall be punished for an act referred to in Paragraph 1 by an imprisonment sentence of six months to five years, for an act referred to in Paragraph 2 by an imprisonment sentence of two to twelve years, and for an act as of Paragraph 3 by an imprisonment sentence of three to fifteen years.

(5) If due to an act as of Paragraph 3 of this Article a child died, the perpetrator shall be punished by an imprisonment sentence of five to eighteen years.

Prohibited sexual acts

Article 208

(1) Anyone who on conditions referred to Article 204, Paragraphs 1 and 2, Article 205, Paragraph 1, Article 206 Paragraph 1 and Article 207, Paragraphs 1 to 3 of the present Code, performs some other sexual act, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) If due to acts as of Paragraph 1 of this Article a severe bodily injury is inflicted to a person, or if the act is performed by more persons or in an extremely cruel or humiliating way or to a child, the perpetrator shall be punished by an imprisonment sentence of two to ten years.

(3) If due to an act as of Paragraph 1 of this Article a person died, the perpetrator shall be punished by an imprisonment sentence of three to fifteen years.

Pimping and enabling having a sexual intercourse

Article 209

(1) Anyone who procures a minor for sexual intercourse, an act equal to it or some other sexual act, shall be punished by an imprisonment sentence of three months to five years.

(2) Anyone who provides for performing debauchery, an act equal to it or some other sexual act to a minor, shall be punished by an imprisonment sentence not exceeding three years.

Mediation in prostitution

Article 210

(1) Anyone who leads or incites another person to prostitution or participates in transferring of some person to other for the purpose of prostitution or who by means of public communication or other similar means promotes or advertises prostitution, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) If an act as of Paragraph 1 of this Article is committed against a minor, the perpetrator shall be punished by an imprisonment sentence of one to ten years.

Displaying pornographic material

Article 211

(1) Anyone who sells or displays to a child or by public displaying or in some other way makes available text, pictures, audio-visual or other objects of pornographic content or displays to it a pornographic show, shall be punished by a fine or an imprisonment sentence not exceeding six months.

(2) Anyone who uses a child to produce pictures, audio-visual or other objects of pornographic nature or for a pornographic show, shall be punished by an imprisonment sentence of six months to five years.

(3) Anyone who sells, shows, publicly exhibits or in electronic or some other way makes available pictures, audio-visual or other objects of pornographic character resulting from acts referred to in Paragraph 2 of this Article shall be punished by an maximum sentence not exceeding two years.

(4) Objects as of Paragraphs 1 to 3 of this Article shall be confiscated.

Prosecution for criminal acts against sexual freedom

Article 212

Prosecution for criminal acts as of Articles 204 and 205 of the present Code done to a spouse shall be taken by a private action.

CHAPTER NINETEEN

CRIMINAL ACTS AGAINST MARRIAGE AND FAMILY

Bigamy

Article 213

(1) Anyone who concludes a new marriage although s/he is already married shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) Anyone who marries a person for whom s/he knows s/he is married shall also be punished by a penalty referred to in Paragraph 1 of this Article.

Concluding a void marriage

Article 214

(1) Anyone who concluding a marriage hides from the other party a fact due to which the marriage becomes void or deceives or keeps the other party deceived on that fact, shall be punished by an imprisonment sentence of three months to three years.

(2) Prosecution can be undertaken only if the marriage concluded is pronounced void for reasons as of Paragraph 1 of this Article.

Enabling of an unlawful marriage

Article 215

A person acting in an official capacity authorized to conclude a marriage who within performance of his/her official duty knowingly allows marriage which is by law forbidden and void, shall be punished by an imprisonment sentence of three months to three years.

Extramarital community with a minor

Article 216

(1) An adult person who lives in an extramarital community with a minor, shall be punished by an imprisonment sentence of three months to three years.

(2) A parent, adoptive parent or a guardian who enables a minor to live in an extramarital community with another person or incites him/her into it shall be punished by a penalty referred to in Paragraph 1 of this Article.

(3) If an act as of Paragraph 2 of this Article is done for gain, the perpetrator shall be punished by an imprisonment sentence of six months to five years.

(4) If a marriage is concluded, prosecution shall not be undertaken, and if it is undertaken it shall be stopped.

Depriving of a minor

Article 217

(1) Anyone who unlawfully keeps a minor from his/her parents, adoptive parent, guardian, other person or an institution, se/he has been entrusted with, or deprives them of him/her, or prevents execution of the decision according to which a minor has been entrusted with a particular person, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) Anyone who prevents execution of a decision of a competent body stipulating the way in which personal relationships between a minor and his/her parent or another relative are to be maintained, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(3) If an act as of Paragraph 1 of this Article is done for gain or other base motives or due to it health, upbringing or education of the minor are seriously endangered, the offender shall be punished by an imprisonment sentence of three months to five years.

(4) Perpetrator of acts as of Paragraphs 1 and 3 of this Article who voluntarily delivers a minor to a person or an institution s/he has been entrusted with or enables the execution of the decision on entrusting a minor, may be remitted from penalty by a court of law.

(5) If a suspended sentence is pronounced for an act referred to in Paragraphs 1 to 3 of this Article, the court may oblige the perpetrator to deliver the minor within the specified time limit to the person or an institution the minor is entrusted with or to enable execution of the decision on entrusting a minor, or decession stipulating the manner of maintaining the personal relationship between the minor and his/her parents or another relative.

Changing the family status

Article 218

(1) Anyone who changes the family status of a child by setting up, substitution or in some other way, shall be punished by an imprisonment sentence ranging of three months to three years.

(2) Anyone who, out of negligence, changes the family status of a child by substitution or in some other way, shall be punished by an imprisonment sentence not exceeding one year.

(3) An attempted offence as of Paragraph 1 of this Article shall be punished.

Neglecting or abusing a minor

Article 219

(1) A parent, adoptive parent, a guardian or any other person who by gross negligence of his/her duty to take care and bring up a minor he is obliged to take care of, neglects him/her shall be punished by an imprisonment sentence not exceeding three years.

(2) A parent, adoptive parent, guardian or other person who abuses a minor or forces him/her to excessive labor or labor not suited to his/her age or to mendicity or for gain leads him into doing other acts detrimental for his/her development, shall be punished by an imprisonment sentence of three months to five years.

Violence in a family or a family community

Article 220

(1) Anyone who by use of violence or by an impudent or arrogant behaviour endangers peace, physical integrity or mental condition of a member of his family or family community shall be sentenced to a fine or imprisonment not exceeding one year.

(2) If for the commission of an act referred to in Paragraph 1 of this Article any weapons, dangerous tools or other means suitable for inflicting heavy bodily injuries or for seriously impairing health are used, the perpetrator shall be sentenced to imprisonment of three months to three years.

(3) If, due to acts referred to in Paragraphs 1 and 2 of this Article, a heavy bodily injury is inflicted or health is seriously impaired or if such acts have been done to a minor, the perpetrator shall be sentenced to imprisonment of one to five years.

(4) If by acts referred to in Paragraphs 1, 2 and 3 of this Article, a death of a member of a family or a family unit has been caused, the perpetrator shall be sentenced to imprisonment of three to twelve years.

Omission of maintenance

Article 221

(1) Anyone who does not give maintenance to other person he is obliged to maintain according to law on the basis of a finally binding court decision or executive settlement before a court of law or other authorized body, to the amount and in the manner determined by the decision or the settlement, shall be liable to a fine or an imprisonment sentence not exceeding one year.

(2) Perpetrator of an act as of Paragraph 1 of this Article shall not be punished if he did not give maintenance for justified reasons.

(3) If due to acts as of Paragraph 1 of this Article, the person maintained suffered serious consequences, the perpetrator shall be punished by an imprisonment sentence of three months to three years.

(4) If the court pronounces a suspended sentence, it can oblige the perpetrator to settle the due obligations and to pay for the maintenance regularly.

Violation of family obligations

Article 222

(1) Anyone who violates family obligations prescribed by law and thereby leaves a family member in a difficult position where he is not capable of taking care of himself, s/he shall be punished by an imprisonment sentence of three months to three years.

(2) If due to acts as of Paragraph 1 of this Article the health of a family member is severely damaged, the perpetrator shall be punished by an imprisonment sentence of one to five years.

(3) If due to acts as of Paragraph 1 of this Article, a family member died, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(4) If for acts referred to in Paragraphs 1 and 2 of this Article a suspended sentence is pronounced by a court of law, it may oblige the perpetrator to perform his/her family duties prescribed by law.

Incest

Article 223

An adult person who performs a sexual intercourse or an equal act with a minor with whom he is related in blood in direct line, or with a minor brother or sister, shall be punished by an imprisonment sentence not exceeding three years.

CHAPTER TWENTY

CRIMINAL ACTS AGAINST LABOR RIGHTS

Violation of labor rights

Article 224

Anyone who deliberately violates law or any other regulation, collective agreement and other general enactments on labor rights and on special protection of youth, women and disabled persons at work, and thereby deprives another person or restricts the right belonging to him/her, shall be punished by a fine or an imprisonment sentence not exceeding two years.

Violation of equality at employment

Article 225

Anyone who deliberately violates regulations or in any other unlawful manner deprives a person of the right to be freely employed under equal conditions in the territory of Montenegro, or restricts this right, shall be punished by a fine or an imprisonment sentence not exceeding one year.

Violation of the right to manage

Article 226

(1) Anyone who by force, threat, deliberate violation of regulations or in any other unlawful way prevents or disturbs decision making of managing bodies, or a member of managing bodies to participate in the work and decision making process in that body, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) If an act as of Paragraph 1 of this Article is performed by a person acting in an official capacity or a responsible person through abuse of his/her position or authorities, s/he shall be punished by a fine or an imprisonment sentence not exceeding two years.

Violation of the right to go on strike

Article 227

(1) Anyone who uses force, threat or in any other unlawful way prevents or obstructs the employees to go on strike, participate in a strike or exercise their right to go on strike, in accordance with law, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) Penalty as of Paragraph 1 of this Article shall be imposed on an employer or any other responsible person who lays off one or more employees on the grounds of taking part in a strike organized in accordance with the law or institutes other measures violating their labor rights.

Abuse of the right to go on strike

Article 228

Anyone who organizes or leads the strike in a way contrary to law or other regulations and thereby poses threat to human life and health or property of high value, or if that leaves grave consequences, unless elements of some other criminal act have been entailed thereby, s/he shall be punished by an imprisonment sentence not exceeding three years.

Violation of the right to social security benefits

Article 229

Anyone who deliberately violates law or other regulations or general enactments pertinent to social security benefits and thereby deprives a person of the right s/he is entitled to, or restricts this right, shall be punished by a fine or an imprisonment sentence not exceeding two years.

Abuse of the right to social security benefits

Article 230

Anyone who simulates or inflicts him/herself an illness or disability for work or performs any other unlawful act to become eligible to a social security benefit s/he is not entitled to according to law or other regulations or general enactments, s/he shall be punished by a fine or an imprisonment sentence not exceeding one year.

Violation of the rights pertinent to temporary unemployment

Article 231

Anyone who knowingly does not observe law or other regulations or general enactments on the rights of citizens pertinent to temporary unemployment and thereby deprives other persons of the right they are entitled to or restricts this right to them, shall be punished by a fine or an imprisonment sentence not exceeding two years.

Disregard of protection measures at work

Article 232

(1) A person responsible for undertaking protection measures at work who knowingly does not observe law or other regulations or general enactments on measures for protection at work, due to which life or health of workers may be endangered or threatened, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) If a suspended sentence is pronounced by a court of law it can oblige the perpetrator to act in compliance with the measures for protection at work within a specified time limit.

CHAPTER TWENTY ONE

CRIMINAL ACTS AGAINST AUTHOR'S, INVENTOR'S AND RELATED RIGHTS

Violation of author's and performer's right

Article 233

(1) Anyone who in his own name or in the name of another person publishes, presents, transmits a performance or presentation, or broadcasts, author's work of some other person or records, multiplies, transmits or broadcasts other person's performance, in entirety or as an extract, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) Anyone who without a permit of the author or other person entitled to the author's right changes or re-makes other person's author's right work or changes other persons recorded performance, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(3) Anyone who uses other person's author's work or other person's performance or in a way which is insulting for the author or his honor and reputation, shall be punished by a fine or an imprisonment sentence not exceeding six months.

Unauthorized use of an author's work or of an object of a related right

Article 234

(1) Anyone who without a permit of the author or other person entitled to the author's or a related right publishes, performs, presents, transmits a performance or presentation, records, multiplies, or puts into circulation, broadcasts, leases the entire author's work or a part thereof, or keeps unlawfully multiplied or unlawfully put into use copies of an author's work, or in some other manner uses it or an object of a related right, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) Perpetrator of an act as of Paragraph 1 of this Article, who puts into circulation or leases copies of an author's work, recordings of performance or shows, or copies of phonograms, videograms or of a computer program or data base s/he obtained through an act as of Paragraph 1 herein, with the intention of obtaining unlawful property gain for him/herself or other persons, shall be punished by an imprisonment sentence of three months to five years.

(3) Anyone who puts into circulation or leases copies of an author's work, recording of performance or of a show, or copies of a phonogram, videogram, or computer program or database, which are known him/her to have been obtained, recorded or multiplied in an unlawful manner, in order to gain unlawful property gain for him/herself or other persons, shall be punished by an imprisonment sentence not exceeding three years.

Violation of an inventor's right

Article 235

(1) Anyone who in an unauthorized manner uses other person's applied invention or an invention protected by a patent, in production or turnover, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) Anyone who in an unauthorized way publishes the essence of other person's invention before this invention is published in the manner prescribed by law, shall be punished by a fine or an imprisonment sentence not exceeding two years.

Unlawful use of other person's model or sample

Article 236

(1) Anyone who in the use of his/her own product unlawfully uses other person's applied outside form, picture or drawing, or the one protected by model or sample, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) Anyone who unlawfully publishes the object of other persons applied model or sample, shall be punished by a fine or maximum an imprisonment sentence not exceeding one year.

False registration of author's, inventor's and other related right

Article 237

A person entitled to the author's, inventor's or related rights, who upon registration and depositing of his/her author's work, invention or object of protection of a related right into the public register of the competent authority, provides false or conceals true data on his/her author's work, invention or object of a related right, shall be punished by fine or an imprisonment sentence not exceeding one year.

Prosecution for criminal acts against author's, inventor's and other related rights

Article 238

Prosecution for criminal acts as of Articles 233 to 237 of the present Code shall be undertaken upon a private complaint.

CHAPTER TWENTY TWO

CRIMINAL ACTS AGAINST PROPERTY

Theft

Article 239

(1) Anyone who deprives other person's movable thing with intention to, by its appropriating, obtain for himself/herself or for another person unlawful material benefit, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) An attempted offence as of Paragraph 1 of this Article shall be punished.

Grave theft

Article 240

(1) A person who committed an act of theft (Article 239) shall be punished by an imprisonment sentence of one to eight years if the theft is done:

- 1) by forcing or breaking into closed buildings, rooms, safes, wardrobes or other closed spaces, or by overcoming major hindrances to reach that object;
- 2) by more persons;
- 3) in a particularly dangerous or particularly impudent manner;
- 4) by a person who had weapon or dangerous tool for attack or defense;
- 5) during a fire, flood, earthquake or other disaster;
- 6) by taking advantage of helplessness or other especially grievous condition of a person;

(2) If the value of stolen things exceeds the amount of €3.000 or a stolen thing represents cultural or natural good, the perpetrator of the act of theft shall also be punished by a penalty referred to in Paragraph 1 of this Article.

(3) If the value of stolen things exceeds the amount of €30.000, the perpetrator shall be punished by an imprisonment sentence of two to ten years.

Theft in the nature of robbery

Article 241

(1) Anyone who caught committing a theft, uses force against a person or threats to attack immediately the life or body of a person, with the intention to appropriate the stolen thing, shall be punished by an imprisonment sentence of one to eight years.

(2) If the value of stolen things exceeds the amount of € 3.000, the perpetrator shall be punished by an imprisonment sentence of two to ten years.

(3) If the value of stolen things exceeds the amount of € 30.000, the perpetrator shall be punished by an imprisonment sentence of two to twelve years.

(4) If an act as of Paragraphs 1 to 3 of this Article is done by more persons or a serious bodily injury is inflicted upon a person with intent, the perpetrator shall be punished by an imprisonment sentence of three to fifteen years.

(5) If in the course of committing an act referred to in Paragraphs 1 to 3 of this Article a person has been killed with intent, the perpetrator shall be sentenced to imprisonment for a minimum term of ten years or convicted to a thirty-year imprisonment.

(6) If the value of stolen things referred to in Paragraph 1 of this Article does not exceed the amount of € 150 and the perpetrator wanted only to have a small material gain, s/he shall be punished by an imprisonment sentence not exceeding three years.

(7) An attempted act as of Paragraph 6 of this Article shall be punished.

Robbery

Article 242

(1) Anyone who uses force against a person or threats to attack immediately his/her life or body to deprive a person of a movable thing with the intention to make unlawful property gain for her/himself or for someone else by appropriating it, shall be punished by an imprisonment sentence of two to ten years.

(2) If the value of things taken away exceeds the amount of € 3.000, the perpetrator shall be punished by an imprisonment sentence of two to twelve years.

(3) If the value of things taken away exceeds the amount of € 30.000, the perpetrator shall be punished by an imprisonment sentence of three to fifteen years.

(4) If an act as of Paragraphs 1 to 3 of this Article is done by more persons or heavy bodily injury has been inflicted to some person, the perpetrator shall be punished by an imprisonment sentence of three to fifteen years.

(5) If in the course of committing an act referred to in Paragraphs 1 to 3 of this Article a person has been killed with intent, the perpetrator shall be sentenced to imprisonment for a minimum term of ten years or convicted to a thirty-year imprisonment.

(6) If value of things taken away does not exceed the amount of € 150 and the perpetrator intended to gain small property benefit, the perpetrator shall be punished by an imprisonment sentence not exceeding three years.

(7) An attempt to do an act as of Paragraph 6 of this Article shall be punished.

Embezzlement

Article 243

(1) Anyone who, intending to obtain for him/herself or another person unlawful property gain, appropriate other person's movable thing s/he is entrusted with, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) If the value of embezzled things exceeds the amount of € 3.000, the perpetrator shall be punished by an imprisonment sentence of one to six years.

(3) If the value of embezzled things exceeds the amount of € 30.000 or the embezzled thing represents cultural good, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(4) Anyone who unlawfully appropriate another's movable thing he found or by accident came by, intending to obtain for him/herself or another person material gain, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(5) For offenses as of Paragraphs 1 to 3 of this Article, if embezzled things represent the property of citizens, prosecution is undertaken by a private action.

Fraud

Article 244

(1) Anyone who, intending to obtain unlawful property gain for him/herself or to someone else, by false presentation or covering up of facts brings someone to delusion or keeps him in delusion and thereby leads him/her to do or fail to do something to the detriment of his/her property or other person's property, shall be punished by a fine or an imprisonment sentence not exceeding three years.

2) Anyone who commits an act as of Paragraph 1 of this Article only intending to make detriment to another, shall be punished by a fine or maximum an imprisonment sentence not exceeding six months.

(3) If through an act referred to in Paragraphs 1 and 2 of this Article material gain or damage is made exceeding the amount of € 3.000, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(4) If through an act referred to in Paragraphs 1 and 2 of this Article material gain or damage exceeding €30.000 is made, the perpetrator shall be punished by an imprisonment sentence of two to ten years.

Obtaining and using credits and other benefits without grounds

Article 245

(1) Anyone who by false presentation or covering up of facts obtains for him/herself or other person a credit, subsidy or any other benefit, although s/he does not fulfill the required conditions for that, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) Anyone who uses a credit, subsidy or any other benefit obtained for purposes other than the ones the credit, subsidy or other benefit is granted for, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(3) For an act as of Paragraphs 1 and 2 of this Article, the responsible person in a company or other business entity shall be punished by a prescribed penalty if the credit, subsidy or other benefit are obtained for the company or other business entity or if they are not used for the intended purposes by those entities.

Petty act of theft, embezzlement and fraud

Article 246

(1) Anyone who commits a petty theft, embezzlement or fraud, shall be punished by a fine or an imprisonment sentence not exceeding six months.

(2) Theft, embezzlement or fraud are considered petty if the value of things stolen or embezzled i.e. damage caused by fraud does not exceed the amount of € 150, and the perpetrator intended to make small property gain i.e. to cause small damage.

(3) For an act as of Paragraph 1 of this Article, if it is committed to the detriment of citizens, prosecution is undertaken by a private action.

Depriving another person of her/his things

Article 247

(1) Anyone who, without the intention to make property gain, unlawfully deprives other person from a movable thing, shall be punished by a fine or an imprisonment sentence not exceeding six months.

(2) If the value of things taken away from others or appropriated exceeds the amount of € 3.000, the perpetrator shall be punished by an imprisonment sentence not exceeding two years.

(3) If the value of things taken away from others or appropriated exceeds the amount of € 30.000 or the thing represents cultural good, the perpetrator shall be punished by an imprisonment of three months to three years.

(4) For an act as of Paragraphs 1 to 3 of this Article, if the thing taken represents a private property, prosecution is undertaken by a private action.

Depriving of motor vehicles

Article 248

(1) Anyone who unlawfully deprives another person of her/his motor vehicle with the intention to use it for driving, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) If the perpetrator of an act referred to in Paragraph 1 of this Article out of negligence does damage to the vehicle exceeding the amount of € 1.000, or makes it possible for another person to do that, s/he shall be punished by a fine or an imprisonment sentence not exceeding three years.

(3) An attempted offence as of Paragraph 1 of this Article shall be punished.

Abuse of trust

Article 249

(1) Anyone who acting as a procurator abuses property interests of another person, or taking care of another person's property abuses authorities granted to him/her, with the intention to make material gain for him/herself or others and to damage the person whose interests he/she represents or whose property s/he takes care of, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) If through an act as of Paragraph 1 of this Article, material gain is made or damage caused in the amount exceeding € 3.000, the perpetrator shall be punished by an imprisonment sentence of one to six years.

(3) If through an act as of Paragraph 1 of this Article, material gain is made or damage caused exceeding the amount of €30.000, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(4) If an act as of Paragraphs 1 to 3 of this Article is committed by a custodian or a lawyer, s/he shall be punished for an act referred to in Paragraph 1 herein by an imprisonment sentence of six months to five years, for an act as of Paragraph 2 by an imprisonment sentence of one to eight years and for an act as of Paragraph 3 by an imprisonment sentence ranging of two to ten years.

Extortion

Article 250

(1) Anyone who, with the intention to make unlawful property gain for him/herself or other person, by force or threat makes another person to do or not do something to the detriment of his/her property or other person's property, shall be punished by an imprisonment sentence of one to eight years.

(2) If through an act as of Paragraph 1 of this Article property gain is obtained in the amount exceeding € 3.000, the perpetrator shall be punished by an imprisonment sentence of two to ten years.

(3) If through an act as of Paragraph 1 of this Article property gain in the amount exceeding € 30.000 is obtained, the perpetrator shall be punished by imprisonment an sentence of two to twelve years.

(4) Anyone who deals with act s referred to in Paragraphs 1 to 3 of this Article or the act is performed by more persons in an organized way, shall be punished by an imprisonment sentence of three to fifteen years.

Blackmail

Article 251

(1) Anyone who, intending to obtain unlawful material gain for him/herself or for another, threats to some person s/he shall reveal something detrimental to the hono ur or reputation of that person or persons close to him/her and thereby forces him/her to do something or not do something to the detriment of his/her property or another's property, shall be punished by an imprisonment sentence of three months to five years.

(2) If through an act as of Paragraph 1 of this Article material gain in the amount exceeding the amount of € 3.000 is obtained, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(3) If through an act as of Paragraph 1 of this Article, material gain is obtained exceeding the amount of € 30.000, the perpetrator shall be punished by an imprisonment sentence of two to ten years.

(4) Anyone who deals with act s as of Paragraphs 1 to 3 of this Article or if the act is performed by more persons in an organized way, shall be punished by an imprisonment sentence of two to twelve years.

Usury

Article 252

(1) Anyone who gives money or other consumable things on loan to another person stipulates for him/herself or for other disproportionate material benefit., taking advantage of serious material position, aggravated circumstances, need, insufficient experience or insufficient capacity for forming a judgment, shall be punished by an imprisonment sentence not exceeding three years and by a fine.

(2) If as a result of acts as of Paragraph 1 of this Article, the injured party suffered heavy consequences or the perpetrator obtained material gain in the amount exceeding € 3.000, s/he shall be punished by an imprisonment sentence of six months to five years and by a fine.

(3) If through an act as of Paragraph 1 of this Article, material gain is obtained in the amount exceeding € 30.000, the perpetrator shall be punished by an imprisonment sentence of one to eight years and by a fine.

Destroying and damaging another's things

Article 253

(1) Anyone who destroys, damages or makes inappropriate for use another's thing, shall be punished by a fine or an imprisonment sentence not exceeding six months. (2) If through an act as of Paragraph 1 of this Article, damage is caused exceeding the amount of € 3.000, the perpetrator shall be punished by a fine or an imprisonment sentence not exceeding two years.

(3) If through an act as of Paragraph 1 of this Article damage is caused in the amount exceeding € 30.000 or the act is done to a cultural good, the perpetrator shall be punished by an imprisonment sentence of six months to five year.

(4) For an act referred to in Paragraphs 1 to 3 of this Article, if the thing damaged represent the property of citizens, prosecution is taken by a private action.

Unlawful occupying of land

Article 254

(1) Anyone who unlawfully occupies another's land, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) If the land occupied is a part of a protective forest, a national park or other land intended for special purposes, the perpetrator shall be punished by an imprisonment sentence of three months to three years.

Injury of another's right

Article 255

(1) Anyone who, with the intention of preventing the exercise of the right to things alienates, destroys, damages or deprives his/her thing to which another person has the right of pledge or the right of usufruct and thereby damages that person, shall be punished by a fine or imprisonment not exceeding six months.

(2) Punishment referred to in Paragraph 1 of this Article shall be imposed upon anyone who, with the intention to obstruct defraying of debts during forced execution, takes away, destroys, damages or conceals parts of his/her property and thereby causes damage to the creditor.

(3) For acts as of Paragraph 1 and 2 of this Article, if the damaged persons are citizens, prosecution is taken by a private action.

Concealment

Article 256

(1) Anyone who conceals, smuggles, purchases, accepts as a pawn or in some other way obtains an object known to be gained through a criminal act, or whatever is obtained for it through sale or exchange, shall be punished by a fine or imprisonment for a maximum term not exceeding three years, provided that it shall not exceed the penalty envisaged for the act by which the thing has been obtained.

(2) Anyone who commits an act as of Paragraph 1 of this Article and who could have been and was obliged to know the thing is obtained through a criminal act shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

(3) If a perpetrator deals with act s as of Paragraph 1 of this Article or the act is committed by more persons in an organized way or the value of things concealed exceeds the amount of € 30.000, s/he shall be punished by an imprisonment sentence of six months to five years.

Prosecution in case when the perpetrator is closely related to the injured party

Article 257

For criminal acts as of Articles 239, 240, 244, 248, 249 Paragraphs 1 to 3, and 256 of the present Code, if the acts are committed to a spouse, a person the injured one is living in permanent extramarital association with, a direct blood relative, a brother or a sister, adoptive parent or adopted child, or other persons the perpetrators lives with in a common household, prosecution is taken by a private action.

CHAPTER TWENTY THREE

CRIMINAL ACTS AGAINST PAYMENT OPERATIONS AND ECONOMIC TRANSACTIONS

Counterfeiting money

Article 258

(1) Anyone who makes false money with the intention of releasing it into circulation as genuine one or who alters real money with the same intention, shall be punished by an imprisonment sentence of two to twelve years.

(2) Anyone who acquires false money with the intention of releasing it into circulation as genuine or who releases false money into circulation, shall be punished by an imprisonment sentence of two to ten years.

(3) If as a result of an act as of Paragraphs 1 and 2 of this Article false money is made, changed, released into circulation or acquired and it exceeds the amount of € 15.000 or an equivalent amount in foreign currency, the perpetrator shall be punished by an imprisonment sentence of five to fifteen years.

(4) Anyone who accepted false money as genuine and after learning it is false releases it into circulation or who knows that money is counterfeited or that false money is released into circulation and does not report it, shall be punished by a fine or imprisonment for a maximum term of one year.

(5) False money shall be confiscated.

Counterfeiting securities

Article 259

- (1) Anyone who makes false securities or alters real securities with the intention of using them as real or giving them to another for use or who uses such false securities as genuine ones or obtains them with such intention, shall be punished by an imprisonment sentence of one to five years.
- (2) If the total amount of counterfeited securities referred to in Paragraph 1 of this Article exceeds €3.000, the perpetrator shall be punished by an imprisonment sentence of one to eight years.
- (3) If the total amount of counterfeited securities as of Paragraph 1 herein exceeds € 30.000, the perpetrator shall be punished by an imprisonment sentence of two to ten years.
- (4) Anyone who accepts false securities as genuine ones and releases them into circulation after learning they are false, shall be punished by a fine or imprisonment in a maximum term not exceeding one year.
- (5) False securities shall be confiscated.

Counterfeiting and abuse of credit cards and cards for non-cash payment

Article 260

- (1) Anyone who makes a false credit card or a card for non-cash payment or who alters a genuine credit or a card for non-cash payment with the intention of using it as a genuine one or who uses such a false card as a genuine one, shall be punished by imprisonment for a maximum term not exceeding three years.
- (2) If the perpetrator of an act as of Paragraph 1 of this Article obtained unlawful material gain by using the card, s/he shall be punished by an imprisonment sentence of six months to five years.
- (3) If the perpetrator as of Paragraph 1 of this Article obtained unlawful property gain in the amount exceeding € 3.000, s/he shall be punished by an imprisonment sentence of one to eight years.
- (4) If the perpetrator referred to in Paragraph 1 of this Article obtained unlawful property gain in the amount exceeding € 30.000, s/he shall be punished by an imprisonment sentence of two to ten years.
- (5) Punishment referred to in Paragraphs 1 to 4 of this Article shall be imposed upon a perpetrator who commits such an act by unlawful use of someone else's card.

Counterfeiting value bearing marks

Article 261

- (1) Anyone who makes false or alters genuine value bearing marks with the intention to use them as genuine ones or to give them to other for use or who uses such false marks as genuine ones or obtains them with such intention, shall be punished by imprisonment for a maximum term not exceeding three years.
- (2) If the total value of marks as of Paragraph 1 of this Article exceeds the amount of three € 3.000, the perpetrator shall be punished by an imprisonment sentence of six months to five years.
- (3) If the total value of signs as of Paragraph 1 of this Article exceeds the amount of € 30.000, the perpetrator shall be punished by an imprisonment sentence of one to eight years.
- (4) Anyone who removes the stamp by which value bearing marks are annulled or uses any other way to give these marks appearance as if they are not used in order to use them again or who uses again used marks or sells them as if they were valid, shall be punished by a fine or imprisonment for a maximum term not exceeding one year.
- (5) False value bearing marks shall be confiscated.

Making, acquiring and giving to another of means for counterfeiting

Article 262

- (1) Anyone who makes, acquires, sells or gives to another for use means for making false money or false securities shall be punished by an imprisonment sentence of six months to five years.
- (2) Anyone who makes, acquires, sells or gives to another for use means for making false value bearing marks shall be punished by a fine or imprisonment for a maximum term not exceeding two years.

(3) Means as of Paragraphs 1 and 2 of this Article shall be confiscated.

Issuing uncovered checks and no-cash payment means

Article 263

(1) Anyone who issues or releases into circulation a check for which s/he knows is not covered, with the intention of obtaining unlawful property gain exceeding the amount of € 150 for him/herself or for another, shall be punished by a fine or imprisonment for a maximum term not exceeding three years.

(2) Anyone who, with the intention of obtaining unlawful property gain for him/herself or for another, issues, releases into circulation or uses acceptance order, a bill of exchange, any kind of warranty, credit or salary card or any other means of payment or means ensuring payment, though s/he knows they are not covered and in that way obtains unlawful material gain in the amount exceeding € 150, shall be punished by a penalty referred to in Paragraph 1 of this Article.

(3) If by an act referred to in Paragraphs 1 and 2 of this Article a property gain is obtained in the amount exceeding € 3.000, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(4) If through an act as of Paragraphs 1 and 2 property gain is made in the amount exceeding € 30.000, the perpetrator shall be punished by an imprisonment sentence of two to ten years.

Tax and contribution evasion

Article 264

(1) Anyone who, with the intention that s/he or another fully or partially evades payment of taxes, contributions or other prescribed dues, gives false data on lawfully obtained revenues, objects or other facts influencing establishing of amounts of such obligations or who, with the same intention, in case of obligatory reporting, does not report lawfully obtained gain or objects or other facts that influence the establishing the amount of such obligation or who with the same intention in some other way conceals data regarding establishing of such obligations and the amount of obligation the payment of which is being evaded exceeds € 1.000, shall be punished by imprisonment for a maximum term of three years and a fine.

(2) If the amount of obligation as of Paragraph 1 of this Article which is being evaded exceeds € 10.000, the perpetrator shall be punished by an imprisonment sentence of one to six years and a fine.

(3) If the amount of obligation referred to in Paragraph 1 of this Article whose payment is being evaded, exceeds € 100.000, the perpetrator shall be punished by an imprisonment sentence of one to eight years and a fine.

Smuggling

Article 265

(1) Anyone who smuggles goods over the customs line evading customs supervision measures or who by evading customs supervision measures smuggles goods over customs line armed, in a group or using force or threats, shall be punished by an imprisonment sentence of six months to five years and a fine.

(2) Anyone who sells, distributes or hides uncleared goods or organizes a network of dealers or middlemen for distribution of such goods, shall be punished by an imprisonment sentence of one to eight years and by a fine.

(3) Goods which are subject to acts as of Paragraphs 1 and 2 of this Article shall be confiscated.

(4) Means of transport which hidden or secret places are used for transport of goods subject to acts referred to in Paragraph 1 of this Article or intended for committing these criminal acts can be taken away if the owner or user of the vehicle is aware of it or he could have been aware and was obliged to be aware of it and if the value of goods subject of the criminal act exceeds one third of the means of transport value at the time of commission of the criminal act.

Forbidden banking, stock-exchange and insurance transactions

Article 266

(1) Anyone who, without a permit or contrary to conditions on which it is granted performs banking, stock-exchange or insurance transactions, shall be punished by an imprisonment sentence of three months to five years.

(2) A responsible person in a legal entity shall be punished by a prescribed penalty for an act as of Paragraph 1 of this Article, if the legal person unlawfully engages in one of the above mentioned transactions.

Issuing uncovered bonds

Article 267

- (1) A responsible person in a bank, company or other business entity engaged in issuing securities, who allows for securities to be issued, even though s/he is aware or could have been aware and was obliged to be aware of the fact that the issuer could not fulfill its obligations resulting from the issuance on conditions, within the specified time limit and in the manner prescribed by law or by the decision on issuance, shall be liable to a fine or imprisonment for a term not exceeding one year.
- (2) A person acting in an official capacity who allows for securities to be issued even though s/he is aware or could have been aware and was bound to be aware of the fact that obligations originating from issuance on conditions, within the specified time limit and in the manner prescribed by law or by the decision on issuance could not be fulfilled, shall be liable to imprisonment for a term not exceeding one year.
- (3) A responsible person in a bank who grants warranty for issuance of securities even though s/he is aware or could have been aware and was obliged to be aware of the fact that obligations taken on by the bank could not be fulfilled, on conditions, within the specified time limit and in the manner determined by law or warranty, shall be liable to a fine or imprisonment for a term not exceeding six months.

Money laundering

Article 268

- (1) Anyone who through banking, financial or other business operations conceals the manner s/he obtained money or other property which s/he knows as obtained through a criminal act, shall be punished by an imprisonment sentence of six months to five years.
- (2) If the offender committing an act as of Paragraph 1 of this Article is at the same time a perpetrator and an accomplice in a criminal act through which money or property gain as of Paragraph 1 of this Article is obtained, s/he shall be punished by an imprisonment sentence of one to eight years.
- (3) If the money or property referred to in Paragraphs 1 and 2 of this Article are of great value, the offender shall be punished by an imprisonment sentence of one to ten years.
- (4) If an act referred to in Paragraphs 1 and 2 of this Article is committed by more persons who joined together to commit such acts, they shall be punished by an imprisonment sentence of three to twelve years.
- (5) If an act referred to in Paragraphs 1 and 2 of this Article is committed out of negligence, the offender shall be punished by imprisonment for a maximum term not exceeding three years.
- (6) Money and property as of Paragraphs 1, 2 and 3 of this Article shall be confiscated.

Violation of equality in the conduct of business activities

Article 269

- (1) Anyone who through abuse of his/her official position or authority limits free or independent connecting of a company or other business entity in conducting business activities in the economic territory of Montenegro, deprives it of the right or limits its right to conduct business activities in a particular territory, puts it into an unequal position in relation to other entities conducting business activities in view of conditions of doing business or limits free performance of business activities, shall be punished by an imprisonment sentence of three months to five years.
- (2) Anyone who abuses his/her social position or influence in order to commit a criminal act as of Paragraph 1 of this Article shall be liable to the penalty referred to in Paragraph 1 herein.

Abuse of monopolistic position

Article 270

A responsible person in a company or other business entity who has the capacity of a legal person or an entrepreneur, who through abuse of monopolistic or dominant position or by entering into monopolistic contracts causes market disruptions or brings that entity into a more favorable position in relation to others, so as to make a material gain for that entity or for another entity or does damage to other business entities, consumers or users of services, shall be punished by an imprisonment sentence of three months to five years.

Unauthorized use of another's company name

Article 271

Anyone who, with the intention to deceive buyers or users of services, uses another's company name, another's geographic mark of origin, another's seal or trademark or another's special mark for goods or includes particular features of these marks into his/her firm,

his/her seal or trademark or into his/her special mark of goods, shall be punished by a fine or imprisonment for a maximum term not exceeding three years.

Negligent performance of business activities

Article 272

(1) A responsible person in a company or other economic entity in which s/he has no majority share who consciously breaches laws, other regulations or general enactments on the conduct of business activities or obviously unconscientiously does business and thereby out of negligence causes damage exceeding € 3.000 to that company or another economic entity, shall be punished by a fine or imprisonment for a maximum term not exceeding three years.

(2) If as a result of acts referred to in Paragraph 1 of this Article a damage is caused exceeding the amount of € 30.000 or a compulsory settlement or a bankruptcy procedure is commenced, the perpetrator shall be punished by an imprisonment sentence of six months to five years.

Causing bankruptcy procedure

Article 273

(1) A responsible person in a company or other business entity having the capacity of a legal person or an entrepreneur who, through irrational spending of means or their selling at an extremely low price, by excessive getting into debt, by undertaking too large obligations, by concluding or renewing contracts with persons who are incapable of payment, by omitting to timely collect claims, by destroying or concealing property or by other acts which are not in conformity with a conscientious conduct of business activities causes bankruptcy and thereby causes damage to another, shall be punished by an imprisonment sentence of six months to five years.

(2) If an act as of Paragraph 1 of this Article is done out of negligence, the perpetrator shall be punished by an imprisonment sentence of three months to three years.

Causing false bankruptcy

Article 274

(1) A responsible person in a company or another business entity who has the capacity of a legal person or an entrepreneur who, with the intention for that entity to evade paying duties, causes bankruptcy of that entity by a seeming or a real decrease of their property in the following way:

1) by covering up the entire or a part of the property of a business entity, by seemingly selling, selling below the market value or by relinquishing it free of charge,

2) by concluding fictitious contracts on debt and recognizing non-existing claims,

3) by covering up, destroying or altering business books a company or a business entity is bound to keep under law so that it is not possible to observe from them the actual business results or the condition of assets or liabilities or by presenting that condition by use of false reports or in any other manner to be such that on these grounds it is possible to declare itself bankrupt, shall be punished by an imprisonment sentence of six months to five years.

(2) If due to acts referred to in Paragraph 1 of this Article a creditor suffers grave consequences, the offender shall be punished by an imprisonment sentence of two to ten years.

Damaging creditors

Article 275

(1) A responsible person in a company or other business entity in the capacity of a legal person or an entrepreneur who, knowing that the entity has become incapable of payment, by paying the debt or in other way, deliberately places the creditor in a more favorable position and thereby significantly damages another creditor, shall be punished by an imprisonment sentence of three months to three years.

(2) A responsible person as of paragraph 1 of this Article or an entrepreneur who, knowing that the entity has become incapable of payment and with the intention to deceive or damage the creditor, recognizes false claims, makes false contracts or through some other fraudulent acts damages the creditor, shall be punished by an imprisonment sentence of three months to five years.

(3) If through an act referred to in Paragraphs 1 and 2 of this Article, a large scale harm is done to the creditor or the procedure of compulsory settlement or bankruptcy is initiated against injured party due to it, the offender shall be punished by an imprisonment sentence of one year to eight years.

Abuse of authority in economy

Article 276

(1) A responsible person in a company or some other economic entity who has the capacity of a legal person or entrepreneur who, with the intention of obtaining unlawful property gain for the legal person in which s/he is employed, for another legal person or another business entity with the capacity of a legal person:

- 1) creates or holds illicit value funds including money, goods or other in the country or abroad,
- 2) makes documents with false contents, false balance, estimates or through interventions or covering up of facts, falsely presents the condition or development of assets and business results, deluding in that way management authorities in the company or in another legal person on the occasion of decision making in management affairs or places in a more favorable position the company or other legal person on occasion of obtaining resources or other privileges which would not be recognized to them according to the existing regulations,
- 3) in relation to the fulfillment of tax duties or in relation to the payment of other dues reduces the amount of resources representing public revenue,
- 4) uses resources he disposes of contrary to their purpose,
- 5) in some other manner gravely violates his/her authorities pertaining to management, disposing and use of property,

shall be punished by an imprisonment sentence of three months to five years.

(2) If through an act referred in paragraph 1 of this Article a large range of material gain is obtained, the perpetrator shall be punished by a imprisonment of two to ten years.

Violation of business reputation and credit standing

Article 277

(1) Anyone who, with the intention to violate business reputation or credit standing of another, puts forward false data or falsely presents his/her business activities, shall be liable to a fine or imprisonment for a maximum term not exceeding one year.

(2) If an act as of Paragraph 1 of this Article results in severe consequences, the perpetrator shall be punished by an imprisonment sentence of three months to three years.

(3) Prosecution as of Paragraphs 1 and 2 of this Article shall be undertaken by private a private action.

False balance

Article 278

Anyone who, with the intention of obtaining some benefit for him/herself or for another or to inflict some harm to another, compiles in a company or another economic entity a false balance determining the profit or loss of that entity or determining the share of each member of a company in the profit or loss, shall be liable to an imprisonment sentence of three months to five years.

Abuse of assessment

Article 279

(1) An authorized assessor who upon assessment of property of a company or another economic entity abuses his/her authority and thereby makes profit for him/herself or for another or causes damage to another, shall be punished by an imprisonment sentence of three months to five years.

(2) If as a result of an act referred to in Paragraph 1 of this article a property gain is made or a damage exceeding the amount of € 3.000 caused, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If as a result of an act referred to in Paragraph 1 of this Article a property gain made or a damage caused exceeds the amount of € 30.000, the offender shall be punished by an imprisonment sentence of two to ten years.

Revealing a business secret

Article 280

(1) Anyone who without authorization communicates to another, hands over or in any other way makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorized person, shall be punished by an imprisonment sentence of three months to five years.

(2) If the offence as of Paragraph 1 of this Article is committed for the purpose of obtaining a gain for him/herself or in respect of strictly confidential data or with intention of their publishing or use abroad, the offender shall be punished by an imprisonment sentence ranging from two to ten years.

(3) Anyone who commits an act as of Paragraph 1 of this Article out of negligence, shall be liable to imprisonment for a maximum term not exceeding three years.

(4) Business secret are considered to be data and documents which by law, other regulations and decisions of competent authorities passed on the basis of law, are proclaimed a business secret, revealing of which would or could cause harmful consequences for a company or other business entity.

Revealing and using stock-exchange secret

Article 281

(1) Anyone who reveals business data from stock-exchange operations or operations of a stock-exchange broker considered to be a stock-exchange secret to an unauthorized person or who comes by such data and upon using them makes material gain, shall be liable to imprisonment of three months to five years.

(2) If through an act as of Paragraph 1 of this Article a material gain is obtained exceeding the amount of € 3.000, the offender shall be liable to imprisonment of one to eight years.

(3) If as a result of an act referred to in Paragraph 1 herein a material gain is obtained exceeding the amount of € 30.000, the offender shall be liable to imprisonment sentence of two to ten years.

Making impossible performance of control

Article 282

Anyone who makes it impossible for the body in charge of performing control to have insight into the business books or other documents or makes impossible inspection of materials, premises or other objects, shall be liable to a fine or imprisonment for a maximum term not exceeding one year.

Unauthorized production

Article 283

(1) Anyone who in an unauthorized way produces or processes goods for the production or processing of which a permit of a competent authority is required, shall be liable to a fine or imprisonment for a maximum term not exceeding two years.

(2) Anyone who produces or processes goods the production or processing of which is forbidden, shall be liable to imprisonment for a maximum term not exceeding three years.

(3) Goods and means for the production and processing shall be confiscated.

Unauthorized trade

Article 284

(1) Anyone who, without a permit for trade, acquires goods or other objects of high value intending to sell them or who in an unauthorized way and to a larger extent deals with trade or mediation in trade or with representation of companies in domestic or foreign trade of goods and services, shall be punished by a fine or imprisonment for a maximum term not exceeding two years.

(2) Anyone who deals with selling goods the production of which s/he organized in an unauthorized manner, shall be punished by an imprisonment of three months to three years.

(3) Anyone who in an unauthorized manner sells, buys or exchanges goods or objects the trade of which is forbidden or limited shall be liable to a penalty referred to in Paragraph 2 of this Article.

(4) If an offender as of Paragraphs 1 to 3 of this Article organized a network of second-hand dealers or middlemen or obtained a property gain exceeding the amount of € 3.000, s/he shall be punished by an imprisonment sentence of six months to five years.

(5) If an offender as of Paragraphs 1 to 3 of this Article obtained a material gain exceeding the amount of € 30.000, s/he shall be punished by an imprisonment sentence of one year to six years.

(6) Goods and objects which are the subject of unauthorized trade shall be confiscated.

Deceiving buyers

Article 285

Anyone who, with the intention to deceive buyers puts into turnover products with the brand including data which do not suit the content, type, origin or quality of the product or puts into turnover products which according to their quantity and quality do not suit what is normally implied by that type of products or puts into turnover products without mark on the content, type, origin or quality of the product when such a mark is prescribed or uses evidently false advertisement when putting the products into turnover, shall be punished by imprisonment for a maximum term not exceeding three years and a fine.

Counterfeiting of signs for marking goods, measures and weights

Article 286

(1) Anyone who, with the intention to use them as genuine makes false seals, stamps, brands or other signs for marking domestic or foreign goods by which gold or other precious metals, wood, cattle or other goods are stamped or who with the same intention alters such signs or who uses such false or altered signs as genuine ones, shall be punished by a fine or imprisonment for a maximum term not exceeding two years.

(2) False signs, measurements and weights shall be confiscated.

CHAPTER TWENTY FOUR

CRIMINAL ACTS AGAINST HUMAN HEALTH

Failure to act according to health regulations during epidemics

Article 287

Anyone who during an epidemic of a dangerous contagious disease fails to act according to regulations, decisions or orders by which measures are prescribed for it to be wiped out or prevented, shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

Transmitting contagious diseases

Article 288

Anyone who fails to act according to regulations, decisions or orders pertaining to wiping out or preventing contagious diseases, due to which contagious disease is transmitted, shall be punished by imprisonment for a maximum term not exceeding three years.

Transmitting an infection by HIV virus

Article 289

(1) Anyone who knowingly brings another into danger of being infected by HIV virus, shall be liable to imprisonment for a maximum term not exceeding two years.

(2) Anyone who knowingly fails to observe regulations and measures pertaining to preventing the spreading of HIV infection and thereby out of negligence brings about transmission of HIV virus infection to another, shall be liable to imprisonment of one year to five years.

(3) Anyone who, knowing that s/he is infected by HIV virus, consciously transmits the infection to another, shall be liable to imprisonment of two to twelve years.

(4) If as a result of an act referred to in Paragraph 3 of this Article, the infected person dies, the perpetrator shall be liable to imprisonment of five to fifteen years.

(5) If an act as of Paragraphs 3 and 4 of this Article is done out of negligence, the perpetrator shall be punished for an act referred to in Paragraph 3 by imprisonment for a maximum term not exceeding three years and for an act referred to in Paragraph 4 by imprisonment of six months to five years.

Unconscientious providing of medical assistance

Article 290

- (1) A doctor who in providing medical assistance applies evidently inadequate medicine or evidently inadequate treatment or who fails to apply adequate hygienic measures or otherwise evidently acts in a conscienceless manner and thereby causes deterioration of the health condition of a person, shall be punished by an imprisonment sentence of three months to three years.
- (2) A health worker who in providing medical assistance or care or in doing other medical activity evidently acts in a conscienceless manner thereby causing deterioration of a person's health condition, shall be liable to a penalty referred to in Paragraph 1 of this Article.
- (3) If an act as of Paragraphs 1 and 2 of this Article is done out of negligence, the perpetrator shall be liable to a fine or imprisonment for a maximum term not exceeding one year.

Unlawful doing of medical experiments and testing of medicines

Article 291

- (1) Anyone who contrary to regulations does medical or other related experiments to people, shall be punished by an imprisonment sentence of three months to five years.
- (2) Anyone who contrary to regulations does clinical trials of a medicine, shall be punished by an imprisonment sentence of three months to three years.

Failure to provide medical assistance

Article 292

- (1) A doctor who contrary to his/her duty refuses to provide medical assistance to a person in need of such assistance whose life is immediately endangered or who is in danger of suffering severe bodily injury or whose health may severely deteriorate, shall be punished by a fine or imprisonment for a maximum term not exceeding two years.
- (2) If due to an act as of Paragraph 1 of this Article a person to whom medical assistance is not provided suffers severe bodily injury or his/her health severely deteriorates, the perpetrator shall be punished by an imprisonment sentence ranging of three months to four years.
- (3) If as a result of an act referred to in Paragraph 1 of this Article a person who did not receive medical aid dies, the perpetrator shall be punished by an imprisonment sentence of one year to eight years.

Quackery

Article 293

Anyone who without adequate qualification deals with providing of treatments to patients or provides other medical services, shall be liable to a fine or imprisonment for a maximum term not exceeding two years.

Unlawful transplantation of parts of human body

Article 294

- (1) A doctor who prior to doing transplantation of a part of human body does not obtain a written consent of the recipient or his/her parent, adoptive parent or custodian, if the recipient is a minor or a mentally incompetent person, shall be punished by an imprisonment sentence of three months to three years.
- (2) A responsible person in a health institution taking or transplanting parts of human body or examining their correspondence for transplantation, shall be liable to a penalty referred to in Paragraph 1 of this Article, if the institution does not fulfill conditions prescribed for that.

Unlawful extraction of parts of human body for transplantation

Article 295

- (1) A doctor who for transplantation takes a part of the body from a live, adult, mentally healthy and in civil capacity person, without a prior written consent of that person and if s/he takes a part of the body of a live minor or a person mentally incompetent or civil incapacitated without obtaining a written consent of that person's parent or adoptive parent or tutor, shall be punished by an imprisonment sentence of three months to four years.
- (2) A doctor who takes for transplantation a part of a dead person whose death is not established in a way and through a procedure complying with regulations on transplantation of parts of human body, shall be liable to a penalty referred to in Paragraph 1 of this Article.

(3) A doctor who for transplantation takes a part of the body of a dead person who during his/her life expressly in writing stated s/he is against taking of parts of the body or if s/he takes a part of a dead minor or a mentally incompetent person without a prior written consent of a parent, adoptive parent or a tutor, shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

Unconscientious preparation and issuance of medicaments

Article 296

(1) A person in charge of issuing medicaments for use in medicine who issues another medicine instead of the prescribed or required medicament, if the replacement is not allowed, or who does not prepare a medicament to the prescribed proportion and quantity or who in some other way evidently acts in a conscienceless manner in issuing medicaments and thus causes the health condition of a person to deteriorate, shall be punished by an imprisonment sentence of three months to three years.

(2) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

Production and release for trade of harmful products

Article 297

(1) Anyone who produces for sale, sells or releases for trade harmful foodstuffs, food or drinks or other harmful products, shall be punished by an imprisonment sentence ranging of three months to three years.

(2) Anyone who releases products referred to in Paragraph 1 of this Article for trade without inspection of an authorized person, when such an inspection is envisaged by relevant regulations, shall be punished by imprisonment for a maximum term not exceeding three years.

(3) If an act referred to in Paragraphs 1 and 2 of this Article is done out of negligence, the perpetrator shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

(4) Objects as of Paragraphs 1 and 2 herein shall be confiscated.

Unconscientious inspection of foodstuffs

Article 298

(1) An authorized person who inspects livestock for slaughter, meat intended for food and other foodstuffs or who contrary to regulations fails to inspect them thereby making possible release for trade of meat and other foodstuffs harmful to human health, shall be punished by an imprisonment sentence of three months to three years.

(2) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

Pollution of drinking water and foodstuffs

Article 299

(1) Anyone who pollutes drinking water or foodstuffs by some harmful substance, shall be punished by an imprisonment sentence of three months to three years.

(2) If an act referred to in Paragraph 1 of this Article is done out of negligence, the offender shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

Unauthorized production, keeping and releasing for circulation of narcotics

Article 300

(1) Anyone who unlawfully produces, processes, sells or offers for sale, or who for the purpose of selling buys, keeps or transports or mediates in the selling or buying, or in some other way unlawfully releases for circulation the substances or preparations pronounced to be narcotics, shall be punished by an imprisonment sentence of two to ten years.

(2) Anyone who unlawfully brings into Montenegro substances or preparations proclaimed to be narcotics, shall be punished by an imprisonment sentence of two to twelve years.

(3) If an act as of Paragraphs 1 and 2 of this Article is committed by more persons or the offender organized a network of dealers and mediators, the perpetrator shall be punished by an imprisonment sentence of three to fifteen years.

(4) A perpetrator of acts referred to in Paragraphs 1 to 3 of this Article who discloses the person from whom s/he obtains the drugs may be released from punishment.

(5) Anyone who unlawfully makes, acquires, possesses or gives for use equipment, material or substances which are known to be intended for producing narcotics, shall be punished by an imprisonment sentence of six months to five years.

(6) Narcotics and substances used for their production shall be confiscated.

Enabling the taking of narcotics

Article 301

(1) Anyone who induces another to take narcotics or gives narcotics to another for his/her or someone else's use, or places at someone's disposal premises for taking the narcotics, or in some other way enables another to take narcotics, shall be punished by an imprisonment sentence of six months to five years.

(2) If an act referred to in Paragraph 1 of this Article is committed against a minor or more persons or has caused extremely harmful consequences, the perpetrator thereof shall be liable to imprisonment of two to ten years.

(3) Narcotics shall be confiscated.

Grave offences against human health

Article 302

(1) If as a result of acts referred to in Articles 288 and 290 Paragraphs 1 and 2, 291, 293, 296 Paragraph 1, 297 Paragraphs 1 and 2, 298 Paragraph 1 and Article 299 Paragraph 1 of the present Code, a person suffers severe bodily injuries or his health is severely damaged, the offender shall be punished by an imprisonment sentence of one to eight years.

(2) If as a result of acts referred to in Articles 288 and 290 Paragraphs 1 and 2, 291, 293, 296 Paragraph 1, 297 Paragraphs 1 and 2, 298 Paragraph 1 and Article 299 Paragraph 1 of the present Code, one or more persons die, the offender shall be punished by imprisonment of two to twelve years.

(3) If as a result of an act referred to in Articles 290 Paragraph 3, 296 Paragraph 2, 297 Paragraph 3, 298 Paragraph 2 and Article 299 Paragraph 2 of the present Code, a person is severely injured or her/his health severely damaged, the offender shall be punished by imprisonment for a maximum term not exceeding three years.

(4) If as a result of an act referred to in Articles 290 Paragraph 3, 296 Paragraph 2, 297 Paragraph 3, 298 Paragraph 2 and Article 299 Paragraph 2 of the present Code, a person dies, the offender shall be punished by an imprisonment sentence of one year to eight years.

CHAPTER TWENTY FIVE

CRIMINAL ACTS AGAINST THE ENVIRONMENT

Pollution of the environment

Article 303

(1) Anyone who by breaching regulations for protection and development of the environment pollutes the air, water and soil to a larger extent or in a wider area, shall be punished by imprisonment for a maximum term not exceeding three years.

(2) If an act as of Paragraph 1 of this Article is committed out of negligence, the offender shall be liable to a fine or imprisonment for a maximum term not exceeding one year.

(3) If due to an act referred to in Paragraph 1 of this Article animal or plant life is destroyed or damaged to a larger extent or the environment is polluted to such an extent that longer period of time and larger expenditures are needed for removing harmful consequences, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) If as a result of an act referred to in Paragraph 2 of this Article animal and plant life is destroyed or damaged to a larger extent or the environment polluted to such an extent that longer time period and larger expenditures are needed for removing harmful consequences, the offender shall be punished by an imprisonment sentence of six months to five years.

(5) If a suspended sentence is pronounced for offences referred to in Paragraphs 1 and 4 of this Article, the court may order the perpetrator to take particular measures prescribed for protection, preservation and development of the environment within a specified time limit.

Failure to take measures for the protection of the environment

Article 304

- (1) A person responsible for taking measures for the protection, preservation and development of the environment who fails to take the prescribed measures for the protection of the environment, shall be liable to a fine or imprisonment for a maximum term not exceeding one year.
- (2) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a maximum term not exceeding six months.
- (3) If due to an act referred to in Paragraph 1 of this Article the air, water or soil are polluted to a larger extent or in a wider area, the offender shall be liable to imprisonment for a maximum term not exceeding three years.
- (4) If due to an act as of Paragraph 2 of this Article the air, water or soil are polluted to a larger extent or in a wider area, the offender shall be liable to a fine or imprisonment for a maximum term not exceeding one year.
- (5) If due to acts as of Paragraph 1 and 3 of this Article animal or plant life is destroyed to a larger extent or the environment polluted to such an extent that longer time period and large expenditures are needed to remove harmful consequences, the offender shall be liable to imprisonment of one to eight years.
- (6) If due to acts referred to in Paragraphs 2 and 4 of this Article animal and plant life is destroyed to a large extent or the environment polluted to such an extent that longer time period and larger expenditures are needed to remove harmful consequences, the offender shall be liable to imprisonment of six months to five years.
- (7) If it pronounces a suspended sentence for acts referred to in Paragraphs 1 to 6 of this Article, the court may order the offender to take certain measures prescribed for protection, preservation and development within a specified time limit.

Unlawful construction and putting into function buildings and plants which pollute the environment

Article 305

- (1) A person acting in an official capacity or a responsible person who by not adhering to regulations on protection, preservation and development of the environment allows construction, putting into function or use of buildings or plants or use of technology which to a larger extent or in a wider area pollutes the environment, shall be punished by an imprisonment sentence of six months to five years.
- (2) If due to acts as of Paragraph 1 of this Article animal or plant life is destroyed to a larger extent or the environment polluted to such an extent that for removing the consequences of pollution longer time period or larger expenditures are needed, the offender shall be punished by an imprisonment sentence of one to eight years.
- (3) If a suspended sentence is pronounced for acts referred to in Paragraphs 1 and 2 of this article, the court may order the offender to take certain measures prescribed for protection, preservation and development of the environment within a specified time limit.

Damaging of buildings and plants for the protection of the environment

Article 306

- (1) Anyone who damages, destroys, removes or in any other way makes useless buildings or plants for the protection of the environment, shall be punished by an imprisonment sentence of one to three years.
- (2) If an act as of Paragraph 1 of this Article is committed out of negligence, the offender shall be liable to a fine or imprisonment for a maximum term not exceeding one year.
- (3) If due to acts referred to in Paragraph 1 of this Article the air, water or soil are polluted to a larger extent and in a wider area, the offender shall be punished by an imprisonment sentence of six months to five years.
- (4) If due to an act referred to in Paragraph 2 of this Article the air, water or soil are polluted to a large extent and in a wider area, the offender shall be liable to imprisonment for a maximum term not exceeding three years.
- (5) If due to an act referred to in Paragraphs 1 and 3 of this Article animal or plant life are destroyed or damaged to a larger extent or the pollution of the environment is of such an extent that for removing its consequences longer time period or major expenditures are needed, the offender shall be punished by an imprisonment sentence of one to eight years.
- (6) If due to acts as of Paragraphs 2 and 4 of this Article animal or plant life are destroyed or damaged to a larger extent or the environment polluted to such a measure that for removing its consequences longer time and larger expenses are needed, the offender shall be punished by an imprisonment sentence of six months to five years.
- (7) If a suspended sentence is pronounced for acts as of Paragraphs 1 to 6 of this Article, the court may order to the offender to take particular measures prescribed for protection, preservation and development of the environment within a specified time limit.

Damaging the environment

Article 307

(1) Anyone who by breaching of regulations, by using natural resources, constructing buildings, doing any kinds of works or in any other way causes damage to the environment to a larger extent or in a wider area, shall be punished by imprisonment for a maximum term not exceeding three years.

(2) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be punished by a fine or imprisonment for a maximum term not exceeding one year.

(3) If due to an act as of Paragraph 1 of this Article animal or plant life are destroyed or damaged to a large extent or the environment polluted to such an extent that for removing its consequences longer time and major expenses are needed, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) If due to an act as of Paragraph 2 of this Article animal or plant life are destroyed or damaged to a larger extent or the environment polluted to such an extent that for removing its consequences longer time period and major expenses are needed, the offender shall be punished by an imprisonment sentence of six months to five years.

(5) If a suspended sentence is pronounced for acts referred to in Paragraphs 1 to 4 of this Article, the court may oblige the offender to take particular measures prescribed for protection, preservation and development of the environment within a specified time limit.

Destruction of plants

Article 308

(1) Anyone who by breaching of regulations destroys or damages plants to a larger extent or in a wider area, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) If an act as of Paragraph 1 of this Article is done to a specially protected species of plants, the offender shall be punished by an imprisonment sentence of six months to five years.

(3) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be punished by a fine or imprisonment for a term not exceeding six months.

(4) If an act as of Paragraph 2 of this Article is done out of negligence, the offender shall be liable to imprisonment for a term not exceeding three years.

Killing and torturing animals

Article 309

(1) Anyone who by breaching of the regulations kills, hurts or tortures animals or damages and destroys their habitats to a larger extent or in a wider area, shall be liable to a fine or imprisonment for a maximum term not exceeding one year.

(2) If due to an act referred to in Paragraph 1 of this Article animals belonging to specially protected animal species are killed or hurt, the offender shall be liable to imprisonment of six months to five years.

(3) If an act referred to in Paragraph 1 of this Article is done out of negligence, the offender shall be punished by an imprisonment sentence not exceeding three years.

Destroying and damaging protected natural goods

Article 310

(1) Anyone who damages or destroys a protected natural good, shall be liable to imprisonment of three months to five years.

(2) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a maximum term not exceeding six months.

Stealing protected natural good

Article 311

(1) Anyone who commits theft (Article 239) of a protected natural good, shall be punished by an imprisonment sentence of one year to six years.

(2) If the protected natural good is taken away by robbery theft or robbery or if the value of the stolen natural good exceeds the amount of € 30.000, the offender shall be punished by an imprisonment sentence of five to fifteen years.

(3) Anyone who, when doing construction, mining, water supply, agricultural or other works appropriates a natural good which has the characteristics due to which it may be declared a protected natural good, the offender shall be punished according to the provisions of Paragraphs 1 and 2 of this Article.

Taking abroad protected natural goods and especially protected plants and animals

Article 312

(1) Anyone who, by not adhering to regulations exports or takes abroad a protected natural good or especially protected plant or animal, shall be punished by an imprisonment sentence ranging of three months to three years.

(2) An attempted offence shall be punished.

Bringing dangerous substances into Montenegro

Article 313

(1) Anyone who, by not adhering to regulations, brings into Montenegro radioactive or other dangerous substances or dangerous waste materials, or who transports such substances over the territory of Montenegro, shall be liable to imprisonment for a maximum term not exceeding three years.

(2) Anyone who by abusing her/his position or authority allows or makes it possible for substances and waste materials referred to in Paragraph 1 of this Article to be brought into Montenegro, or transports the above mentioned substances over the territory of Montenegro, shall be punished by an imprisonment sentence of six months to five years.

(3) Anyone who organizes acts referred to in Paragraph 1 of this Article shall be punished by an imprisonment sentence of one year to eight years.

(4) An attempted offence as of Paragraph 1 of this Article shall be punished.

Unlawful processing, taking away and storing of dangerous substances

Article 314

(1) Anyone who contrary to regulations processes, takes away, collects, stores or transports radioactive or other dangerous substances or dangerous waste materials, shall be liable to imprisonment for a maximum term not exceeding three years.

(2) Anyone who by abusing his/her official status or authority allows or makes possible processing, taking away, collecting, storing or transport of substances or waste materials referred to in Paragraph 1 of this Article, shall be liable to imprisonment of six months to five years.

(3) If due to acts as of Paragraphs 1 and 2 of this Article, animal or plant life is destroyed to a large extent or the environment polluted to such an extent that a longer period or major expenses are needed to remove its consequences, the offender shall be liable to imprisonment of one to eight years.

(4) An attempted offence as of Paragraph 1 of this Article shall be punished.

(5) If a suspended sentence is pronounced for acts referred to in Paragraphs 1 to 4 of this article, a court may oblige the offender to take particular measures prescribed for protection from ionizing radiation or other prescribed protection measures within a specified time limit.

Unlawful construction of nuclear plants

Article 315

Anyone who contrary to regulations allows or starts construction of a nuclear power plant, plants for production of nuclear fuel or plants for processing of used nuclear waste, shall be punished by an imprisonment sentence of six months to five years.

Non executing the decision pertaining to environmental protection measures

Article 316

(1) A person acting in an official capacity or a responsible person who fails to execute the decision of the competent authority pertaining to taking environmental protection measures, shall be liable to imprisonment for a term not exceeding three years.

(2) If a suspended sentence is pronounced the court may oblige the offender to take measures determined by the competent authority within the specified time limit.

Violation of the right to be informed on the state of the environment

Article 317

(1) Anyone who contrary to regulations does not provide data or provides untrue data on the state of the environment and the phenomena which are necessary for the assessment of danger for the environment and for taking measures for the protection of life and health of people, shall be liable to a fine or imprisonment for a maximum term not exceeding one year.

(2) Anyone who makes public untrue data on the state of the environment and thereby causes panic or major alarm among citizens shall be liable to a penalty referred to in Paragraph 1 of this Article.

Transmitting of contagious animal and plant diseases

Article 318

(1) Anyone who during an epidemics of a livestock disease that may endanger cattle breeding fails to adhere to regulations, decisions and orders prescribing measures for suppressing and preventing the disease, shall be liable to a fine or imprisonment for a term not exceeding two years.

(2) Anyone who in the course of danger of diseases and pests which can endanger animal or plant life does not obey regulations, decisions and orders prescribing measures for suppressing and preventing the disease or pests shall be liable to a fine referred to in Paragraph 1 of this Article.

(3) If due to an act as of Paragraphs 1 and 2 of this Article animals die, plants are destroyed or some other major damage is done, the offender shall be liable to imprisonment for a term not exceeding three years.

(4) If an act referred to in Paragraphs 1 to 3 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding one year.

(5) Anyone who contrary to regulations conceals the existence of a contagious disease among animals and does not report to the veterinary services, the veterinary doing private practice or a body authorized to do veterinary work, that there are signs indicating to the existence of such a disease, due to which the contagious disease spreads or animals die or some other major harm is done, shall be liable to a fine or imprisonment for a term not exceeding one year.

Unconscientious rendering veterinary services

Article 319

(1) A veterinary or an authorized veterinary worker who in providing veterinary assistance prescribes or applies evidently inadequate means or evidently inappropriate treatment, or otherwise acts in a conscienceless manner during treatment of animals thereby causing animals to die or causes other major harm, shall be liable to imprisonment for a term not exceeding two years.

(2) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding six months.

Quack veterinary assistance

Article 320

Anyone who without the prescribed qualification for fee deals with treatment of animals or provides other veterinary services, shall be liable to a fine or imprisonment for a term not exceeding six months.

Producing harmful products for treating animals

Article 321

(1) Anyone who produces for sale or releases for trade products for treatment or for preventing epidemics in animals, which are harmful for their life and health, shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) If due to an act as of Paragraph 1 of this Article an animal dies or other major harm is done, the offender shall be liable to a fine or imprisonment for a term not exceeding two years.

(3) If an act as of paragraphs 1 and 2 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding six months.

Pollution of livestock fodder and water

Article 322

- (1) Anyone who pollutes with some harmful substance livestock fodder or water and thereby brings into danger life and health of animals, shall be liable to a fine or imprisonment for a term not exceeding one year.
- (2) Anyone who pollutes water in a fishery, lake, river, channel or sea, or by stocking with fish from polluted waters causes danger for survival of fish or other water animals, shall be liable to a penalty referred to in Paragraph 1 of this Article.
- (3) If by an act referred to in Paragraphs 1 and 2 of this Article animals die or other large scale damage is done, the perpetrator shall be liable to a fine or imprisonment for a term not exceeding two years.
- (4) If an act as of Paragraph 1 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding six months.

Devastation of forests

Article 323

- (1) Anyone who contrary to regulations and orders of competent authorities cuts or clear forests, or who damages trees or in some other way devastates forests or falls one or more trees in a park, tree-lined path or in some other place where it is forbidden to cut trees, shall be liable to a fine or imprisonment for a term not exceeding one year.
- (2) Anyone who commits an act as of Paragraph 1 of this Article in a protective forest, national park or some other forest intended for special purposes shall be punished by an imprisonment sentence of three months to three years.

Forest theft

Article 324

- (1) Anyone who, with purpose of stealing, falls one or more trees in a forest, park or a tree-line path, and the quantity of fallen trees is larger than one cubic meter, the offender shall be liable to a fine or imprisonment for a term not exceeding one year.
- (2) If an act as of Paragraph 1 of this Article is done with the intention to sell the fallen tree, or if the quantity of trees fallen exceeds five cubic meters, or if the act is committed in a protective forest, a national park or other forest intended for special purposes, the offender shall be punished by an imprisonment sentence of three months to three years.
- (3) An attempted offence as of Paragraphs 1 and 2 of this Article shall be punished.

Unlawful hunt

Article 325

- (1) Anyone who hunts game during closed season or in a territory where hunting is forbidden, shall be liable to a fine or imprisonment for a term not exceeding six months.
- (2) Anyone who unlawfully hunts game in another's preserve and kills or hurts game or catches it alive, shall be liable to a fine or imprisonment for a term not exceeding one year.
- (3) If an act referred to in Paragraph 2 of this Article is done to big game, the offender shall be liable to a fine or imprisonment for a term not exceeding two years.
- (4) Anyone who hunts game the hunting of which is forbidden or who hunts without a special permit a particular type of game for the hunting of which such a permit is needed, or who hunts in a way or by means which destroy game in a massive way, shall be liable to imprisonment for a term not exceeding three years.
- (5) The game hunted and the means for hunting shall be confiscated.

Unlawful fishing

Article 326

- (1) Anyone who catches fish or other water animals during closed season or in waters in which fishing is forbidden, shall be liable to a fine or imprisonment for a term not exceeding six months.

(2) Anyone who uses explosive, electric current, poison, intoxicating substances or a way that is harmful to breeding or used for mass destruction of fish or other water animals shall be liable to imprisonment for a term not exceeding three years.

(3) Anyone catching fish or other water animals of higher biological value or in larger quantity, or destroys larger quantity of fish or other water animals in fishing, shall be liable to a penalty referred to in Paragraph 2 of this Article.

(4) The catch and means for fishing shall be confiscated.

CHAPTER TWENTY SIX

CRIMINAL ACTS AGAINST GENERAL SAFETY OF PEOPLE AND PROPERTY

Causing general danger

Article 327

(1) Anyone who causes danger to life or body of people or property of a larger scale through causing fire, flood, explosion, by poison or poisonous gas, radioactive or other ionizing radiation, electrical power, motor power or any other generally dangerous act or means shall be liable to an imprisonment sentence of six months to five years.

(2) The sentence referred to in Paragraph 1 of this Article shall be imposed on any person acting in an official capacity or a responsible person who fails to install prescribed equipment for protection against fire, flood, explosion, poison or poisonous gas, radioactive or other ionizing radiation, electrical power or other harmful substances, or fails to maintain these as to the functioning level, or if in need fails to use the equipment, or does not observe regulations or technical protection standards at all and thereby causes danger to life or body of people or property of a larger scale.

(3) If the acts referred to in Paragraphs 1 and 2 of this Article are done at the venue of gathering a lot of people, the perpetrator shall be liable to an imprisonment sentence of one to six years.

(4) If an act as of Paragraphs 1 and 3 of this Article is done out of negligence, the perpetrator shall be liable to imprisonment for a maximum term not exceeding three years.

Destroying and damaging public infrastructure

Article 328

(1) Anyone who destroys, damages, alters or makes useless or removes public infrastructure items for water supply, heating, gas, electrical or other power or items of telecommunications system or other items of public infrastructure and disturbs their use, shall be liable to a fine or imprisonment for a term not exceeding two years.

(2) If due to an act as of Paragraph 1 of this Article the use of these items is significantly disturbed, the perpetrator shall be punished by an imprisonment sentence of three months to five years.

(3) If an act referred to in Paragraph 1 of this Article is done out of negligence, the perpetrator shall be punished by a fine or imprisonment for a term not exceeding six months.

(4) If an act referred to in Paragraph 2 of this Article is done out of negligence, the perpetrator shall be punished by a fine or imprisonment for a term not exceeding two years.

Jeopardizing safety at workplace

Article 329

(1) Anyone who in mines, factories, workshops, in construction sites or in some other work place, damages or removes safety equipment and hereby causes danger to life or body or to property of a larger value, shall be punished by an imprisonment sentence of six months to five years.

(2) Sentence referred to in Paragraph 1 of this Article shall be imposed upon a responsible person in a mine, factory, workshop, at a construction site or in some other work place who fails to install safety equipment or does not maintain them at functioning level, or does not put it in use if need be, or does not observe regulations and technical standards on safety at work and thereby causes danger to life and physical existence or property of a larger value.

(3) If an act as of Paragraphs 1 and 2 of this Article is done out of negligence, the offender shall be liable to imprisonment for a term not exceeding three years.

(4) If a suspended sentence is pronounced for acts as of Paragraph 2 of this Article a court may oblige the perpetrator to ensure safety equipment to be installed, maintained or used within the set time limit.

Construction work which does not comply with regulations and standards

Article 330

(1) A person responsible for designing, managing or executing construction or construction works, who does not observe regulations and general technical standards thereby causing danger to life and body or property of a larger value, shall be punished by an imprisonment sentence of six months to five years.

(2) If an act as of Paragraph 1 of this article is done out of negligence, the perpetrator shall be liable to a fine or imprisonment for a term not exceeding three years.

Damage to dams and water supply facilities

Article 331

(1) Anyone who damages or makes useless a dam or other water supply facility or equipment for protection against natural disasters, shall be liable to imprisonment for a term not exceeding one year.

(2) If an act as of Paragraph 1 of this Article is done to a building or an item of larger importance, the perpetrator shall be liable to an imprisonment sentence six months to five years.

(3) If an act as of Paragraph 2 of this Article is done out of negligence, the perpetrator shall be liable to a fine or imprisonment for a term not exceeding three years.

Destroying, damaging or removing danger warning signs

Article 332

(1) Anyone who damages, destroys or removes a danger warning sign of any kind, shall be punished by a fine or imprisonment for a term not exceeding two years.

(2) Punishment as of Paragraph 1 of this Article shall be imposed upon anyone damaging, destroying or removing an item, means or sign relating to traffic safety or signalization equipment or protective and defensive railing serving public traffic safety.

Abuse of telecommunication signs

Article 333

(1) Anyone who abuses or unnecessarily sends away an internationally agreed sign for call for help or a danger warning sign, or who deceives others by using telecommunication no danger signs, or who abuses internationally agreed communication sign, shall be liable to imprisonment for a term not exceeding three years.

(2) If due to an act as of Paragraph 1 of this Article danger is caused for life of people or property of larger value, the perpetrator shall be punished by an imprisonment sentence ranging of six months to five years.

Failure to remove danger

Article 334

(1) Anyone who does not report to a competent authority or other competent subject a fire, flood, an explosion, a traffic accident or some other danger to life or body of people or property of larger value, or who does not take measures for removing that danger, even though s/he could have done it without any damage to him/herself or another shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) Anyone who prevents another from taking measures for removing fire, flood, explosion, traffic accident or other danger to life and or body of people or property of larger value, shall be liable to imprisonment for a term not exceeding three years.

Unauthorized handling of explosive and inflammable material

Article 335

(1) Anyone who contrary to regulations stores, keeps, transports or hands over for transport by public traffic means explosive or easily inflammable material or transports such material by him/herself using a public transport means, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) Sentence referred to in Paragraph 1 of this Article shall also be imposed upon anyone who unlawfully brings explosive or easily inflammable material into a premise or some other building which is the venue of gathering of a larger number of people or brings such material into a place where a large number of people gathers or where such gathering is forthcoming.

(3) Anyone who brings into a pit with methane or other inflammable gas or dangerous carbon dust or brings into a building at an oil or gas field or tries to bring easily inflammable substance or other goods whose bringing into such a pit or building is dangerous, shall be punished by an imprisonment sentence of three months to three years.

(4) Sentence referred to in Paragraph 3 of this Article shall also be imposed on anyone who when entering a storehouse, warehouse or a storeroom with explosive material does not adhere to prescribed protection measures.

(5) If an act as of Paragraphs 3 and 4 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding one year.

Unlawful acquisition and disposing of nuclear substances

Article 336

Anyone who unlawfully acquires, possesses, uses, transports, hands over to another nuclear substances or makes it possible for another to acquire them, shall be liable to imprisonment for a term not exceeding three years.

Endangering safety with nuclear substances

Article 337

(1) Anyone who threatens to use a nuclear substance to endanger the safety of people, shall be punished by an imprisonment sentence of six months to five years.

(2) If an act as of Paragraph 1 of this Article is done with the intention to compel somebody into doing or not doing something, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(3) If a perpetrator commits an act referred to in Paragraphs 1 and 2 of this Article through threats due to which a heavy bodily injury is inflicted or property damaged to a large extent, the offender shall be punished by an imprisonment sentence of two to ten years.

(4) If an offender as of Paragraphs 1 and 2 of this Article pronounced threats due to which one or more persons died, the offender shall be punished by an imprisonment sentence of three to fifteen years.

Grave offences against general safety

Article 338

(1) If due to acts referred to in Articles 327 Paragraphs 1 to 3, 328 Paragraphs 1 and 2, 329 Paragraphs 1 and 2, 330 Paragraph 1 and Article 333 of the present Code a heavy bodily injury is inflicted upon a person or a large scale property damage is done, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(2) If due to acts referred to in Articles 327 Paragraphs 1 to 3, 328 Paragraphs 1 and 2, 329 Paragraphs 1 and 2, 330 Paragraph 1 and Article 333 of the present Code one or more persons died, the offender shall be punished by an imprisonment sentence ranging of two to twelve years.

(3) If due to acts referred to in Articles 327 Paragraph 4, 328 Paragraphs 3 and 4, 329 Paragraph 3 and Article 330 Paragraph 2 of the present Code a heavy bodily injury of a person is caused or property damaged to a large extent, the offender shall be punished by imprisonment for a term not exceeding three years.

(4) If as a result of acts referred to in Articles 327 Paragraph 4, 328 Paragraphs 3 and 4, 329 Paragraph 3 and Article 330 Paragraph 2 of the present Code one or more persons died, the offender shall be punished by an imprisonment sentence of one to eight years.

CHAPTER TWENTY SEVEN

CRIMINAL ACTS AGAINST PUBLIC TRAFFIC SAFETY

Endangering public traffic

Article 339

(1) A participant in traffic on public roads who does not adhere to the traffic safety regulations and thereby endangers public traffic in such a way as to bring into danger the life and body of people or property of a larger scope causing thus out of negligence a light bodily

injury to another or a property damage exceeding the amount of € 1.000, shall be liable to a fine or imprisonment for a term not exceeding three years.

(2) Anyone who does not adhere to traffic safety regulations and thereby causes danger to railroad, ship or bus traffic or traffic by cable railway so as to bring into danger the life and body of people or property of a larger extent, shall be punished by imprisonment for a term of six months to six years.

(3) If an act referred to in Paragraphs 1 and 2 of this Article is done out of negligence, the perpetrator shall be liable to a fine or imprisonment for a term not exceeding one year.

Endangering traffic safety with dangerous acts or means

Article 340

(1) Anyone who destroys, removes or severely damages a traffic device, means or sign or a signalization device or protective and defending railing serving the traffic safety at roads, or gives a wrong signal or sign, or sets up obstacles on the roads or in some other similar way brings into danger public traffic and thereby brings into danger the life and body of people or property of a larger extent, shall be liable to imprisonment for a term not exceeding three years.

(2) Anyone who in the manner referred to in Paragraph 1 of this Article brings into danger railroad, ship, bus traffic or cable railway and herewith brings into danger life and body of people or property of a larger extent, shall be liable to imprisonment of six months to five years.

(3) If an act as of Paragraphs 1 and 2 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding one year.

Endangering air traffic safety

Article 341

(1) Anyone who controls an aircraft in an incorrect way or contrary to regulations, omits his duty or supervision related to the safety of air traffic, gives incorrect information important for the flight of an airline, or in some other way endangers the safety of air traffic, shall be punished by imprisonment for a term of one to six years.

(2) If an act as of Paragraph 1 of this Article is done out of negligence or by damaging navigation devices or doing other damage to the aircraft by negligence, the perpetrator shall be punished by imprisonment for a term of three months to three years.

Endangering air traffic safety by violence

Article 342

(1) Anyone who uses violence to persons in an aircraft, who sets or brings into the aircraft explosive or other dangerous devices or substances, or destroys or by damaging navigation devices or causing other damage to the aircraft brings into danger the safety of air traffic, shall be punished by imprisonment for a term of two to ten years.

(2) If due to an act referred to in Paragraph 1 of this Article a heavy bodily injury is inflicted to a person or a large scale damage is caused, the offender shall be punished by imprisonment for a term of two to twelve years.

(3) If due to an act referred to in Paragraph 1 of this Article one or more persons died, the offender shall be punished by imprisonment for a term of five to fifteen years.

Hijacking an aircraft, ship or other means of transport

Article 343

(1) Anyone who by force or threat that s/he will use force takes over the control of an aircraft during flight or of a ship when sailing or other means of public transport while they are in motion, shall be punished by an imprisonment sentence of two to ten years.

(2) If due to an act referred to in Paragraph 1 of this Article a heavy bodily injury is inflicted on a person or large scale damage caused, the perpetrator shall be punished by imprisonment for a term of two to twelve years.

(3) If due to an act referred to in Paragraph 1 of this Article one or more persons died, the offender shall be punished by imprisonment for a term of five to fifteen years.

Failure to provide assistance to a ship or another vessel or to persons in danger at sea or in inland waters

Article 344

(1) A commander of a ship, boat or other vessel sailing, a person who acts on his/her behalf or a person who only navigates one of the above mentioned vessels, who contrary to regulations does not undertake saving at sea or in inland waters of the ship, boat or another vessel, of persons or goods in danger, if he could undertake saving without running risk for his/her ship, boat or other vessel, shall be punished by imprisonment for a term of three months to three years.

(2) A person referred to in Paragraph 1 of this Article who contrary to regulations does not remove from the navigable way in inland waters a vessel with which the vessel he is in command of, or which he navigates, collided with, and could do that without running risk for that vessel, shall be punished by imprisonment for a maximum term not exceeding three years.

Piracy

Article 345

(1) A member of the crew or a passenger of a private ship or private aircraft who in the high sea or at a place not coming under the authority of any state performs an act of violence or robbery to persons on another ship or aircraft or who retains, hijacks, damages or destroys another ship or aircraft or goods placed on it, or causes damage of a large scale, shall be punished by imprisonment for a term of three to fifteen years.

(2) If due to an act referred to in Paragraph 1 of this Article one or more persons died, the offender shall be punished by imprisonment for a term of five to fifteen years.

(3) If an act as of paragraphs 1 and 2 of this Article is done by a member of the crew or a passenger of a war or other state-owned ship or military or other state-owned aircraft whose crew has risen to arms or taken over the control of a ship or an aircraft, shall be liable to a penalty prescribed for such an act.

Unconscientious performing supervision of public traffic

Article 346

(1) A person acting in an official capacity or a responsible person who has been entrusted with the supervision of the state of roads and pertaining facilities, means of transport or public transport and of maintenance thereof, and the meeting of prescribed work conditions for drivers, or who has been entrusted the direction of driving, who by conscienceless performance of his/her duty causes danger to life or body of people or to property of a larger extent, shall be punished by imprisonment for a term of six months to five years.

(2) Punishment referred to in Paragraph 1 of this Article shall be imposed upon a responsible person who issues a driving order or allows driving, even though he/she knows that due to fatigue, effects of alcohol or other reasons, the driver is not capable of safely steering the vehicle or that the vehicle is not functioning properly, whereby the safety of life and body of people or property of a larger extent is endangered.

(3) If an act as of Paragraph 1 of this Article is done out of negligence, the perpetrator shall be liable to imprisonment for a maximum term not exceeding three years.

Failure to provide assistance to a person injured in a traffic accident

Article 347

(1) Driver of a motor vehicle or another means of transport who leaves helpless a person who is hurt by that means of transport or whose injury is caused by that means, shall be liable to a fine or imprisonment for a term not exceeding two years.

(2) If due to a failure to provide assistance a heavy bodily injury is inflicted, the perpetrator shall be liable to a fine or imprisonment for a term not exceeding three years.

(3) If due to a failure to provide assistance the injured person dies, the offender shall be liable to imprisonment of three months to four years.

Grave offences against traffic safety

Article 348

(1) If due to an act referred to in Articles 339 Paragraphs 1 and 2, 340 Paragraphs 1 and 2, 341 Paragraph 1, 344 and Article 346 Paragraphs 1 and 2 of the present Code, a heavy bodily injury is inflicted to a person, or property damaged to a large extent, the offender shall be liable to imprisonment of one to eight years.

(2) If due to acts referred to in Articles 339 Paragraphs 1 and 2, 340 Paragraphs 1 and 2, 341 Paragraph 1, 344 and Article 346 Paragraphs 1 and 2 of the present Code, one or more persons died, the offender shall be liable to imprisonment of two to twelve years.

(3) If due to acts referred to in Articles 339 Paragraph 3, 340 Paragraph 3, 341 Paragraph 2 and Article 346 Paragraph 3 of the present Code, a heavy bodily injury is inflicted on a person or property is damaged to a larger extent, the offender shall be liable to imprisonment for a term not exceeding three years.

(4) If due to acts referred to in Articles 339 Paragraph 3, 340 Paragraph 3, 341 Paragraph 2 and Article 346 Paragraph 3 of the present Code, one or more persons died, the offender shall be punished by imprisonment for a term of one to eight years.

CHAPTER TWENTY EIGHT

CRIMINAL ACTS AGAINST SAFETY OF COMPUTER DATA

Damaging computer data and programs

Article 349

(1) Anyone who without authorization deletes, alters, damages, conceals or in any other way makes useless a computer datum or a program, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) If due to an act as of Paragraph 1 of this Article a damage exceeding the amount of € 3.000 is caused, the offender shall be punished by imprisonment for a term of three months to three years.

(3) If due to an act as of Paragraph 1 of this Article a damage exceeding the amount of € 30.000 is caused, the offender shall be punished by imprisonment for a term of three months to five years.

(4) If equipment and means used for committing a criminal act referred to in Paragraphs 1 and 2 of this Article are the possession of the offender, they shall be confiscated.

Computer sabotage

Article 350

Anyone who brings in, destroys, deletes, alters, damages, conceals or in any other way makes useless a computer datum or a program or destroys or damages a computer or some other device for electronic processing and transfer of data with the intention to make impossible or disturb significantly the procedure of electronic processing and transfer of data which are significant for state authorities, public services, institutions, companies or other subjects, shall be punished by imprisonment for a term of one to eight years.

Producing and entering computer viruses

Article 351

(1) Anyone who makes a computer virus with the intention of entering it into another's computer or computer network, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) If the offender enters a computer virus into another's computer or computer network and thereby causes damage, s/he shall be liable to a fine or imprisonment for a term not exceeding two years.

(3) The device and means used for committing a criminal act referred to in Paragraphs 1 and 2 of this Article shall be confiscated.

Computer fraud

Article 352

(1) Anyone who enters an untrue datum, omits to enter a correct datum or in some other way conceals or falsely presents a piece of data and thereby influences the result of electronic processing and transfer of data with the intention of obtaining unlawful property gain for him/herself or for another and thereby causes property damage to another, shall be punished by imprisonment for a term of six months to five years.

(2) If by an act as of Paragraph 1 of this Article a property gain is obtained exceeding the amount of € 3.000, the offender shall be punished by imprisonment sentence for a term of two to ten years.

(3) If by an act as of Paragraph 1 of this article, a property gain is obtained exceeding the amount of € 30.000, the offender shall be punished by imprisonment for a term of two to twelve years.

(4) If an act as of Paragraph 1 of this Article is done only with the intention to cause damage to another, the offender shall be liable to a fine or imprisonment for a maximum term not exceeding two years.

Unauthorized use of computers and computer network

Article 353

Anyone who uses computer services or computer network without authorization with the intention to obtain unlawful property gain for him/herself or for another shall be liable to a fine or imprisonment for a term not exceeding three months.

Disturbing electronic processing, data transfer and computer network functioning

Article 354

(1) Anyone who accesses electronic data processing or a computer network without authorization, causes a hold-up or disturbs the functioning of electronic processing and data transfer or disturbs the network, shall be liable to a fine or imprisonment for a term not exceeding two years.

(2) If an act as of Paragraph 1 of this Article causes severe consequences, the offender shall be punished by imprisonment for a term of six months to five years.

Accessing protected computer and computer network without authorization

Article 355

(1) Anyone who, violating the protection measures, connects into a computer or a computer network without authorization, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) Anyone who uses a datum obtained in the manner envisaged by Paragraph 1 of this Article, shall be liable to a fine or imprisonment for a term not exceeding three years.

(3) If due to acts referred to in Paragraph 2 of this Article, severe consequences occurred for another person, the offender shall be punished by imprisonment for a term of six months to five years.

Preventing and limiting access to public computer network

Article 356

(1) Anyone who prevents or disturbs access to public computer network in an unauthorized way, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) If an act as of Paragraph 1 of this Article is committed by a person acting in an official capacity while performing his/her duty, s/he shall be liable to imprisonment for a term not exceeding three years.

CHAPTER TWENTY NINE

CRIMINAL ACTS AGAINST THE CONSTITUTIONAL ORDER AND SECURITY OF MONTENEGRO AND SMN

Jeopardizing independence

Article 357

Anyone who, in unconstitutional manner attempts to bring Montenegro or SMN into the position of subordination or dependence from some other state, shall be liable to imprisonment of three to fifteen years.

Recognition of capitulation or occupation

Article 358

A citizen of Montenegro who signs or recognizes capitulation or accepts or recognizes occupation of Montenegro, SMN or any part thereof, shall be liable to imprisonment for a minimum term of ten years or a thirty - years imprisonment.

Endangering territorial integrity

Article 359

(1) Anyone who by force or in some other unconstitutional manner attempts to secede a part of the territory of Montenegro or SMN, or to annex a part of that territory to another state, shall be punished by imprisonment for a term of three to fifteen years.

(2) Anyone who by force or in some other unconstitutional manner attempts to change the borders between the member states of SMN, shall be punished by imprisonment for a term of two to twelve years.

Attacking the constitutional order

Article 360

Anyone who by force or threats to use force attempts to change the constitutional order of Montenegro and SMN, shall be punished by imprisonment for a term of three to fifteen years.

Deposing the supreme state authorities

Article 361

Anyone who by force or threats to use force attempts to depose some of the supreme state authorities of Montenegro or SMN or representatives thereof, shall be punished by imprisonment for a term of one to eight years.

Sedition

Article 362

(1) Anyone who, with the intention to endanger the constitutional order or security of Montenegro or SMN calls for or instigates a forced change of their constitutional order, to depose the supreme state authorities or representatives thereof, shall be punished by imprisonment for a term of three months to five years.

(2) Anyone who commits an act as of Paragraph 1 of this Article with help from abroad shall be punished by imprisonment for a term of one to eight years.

(3) Anyone who with intention to distribute produces or reproduces material which is by its content such that it calls for or instigates acts as of Paragraph 1 of this Article to be committed or who directs or transfers to the territory of SMN such material, keeps larger quantity thereof with the intention to distribute it him/herself or that someone else distributes it, shall be punished by imprisonment for a term of three months to three years.

Assassination of the highest representatives of the state union and member states

Article 363

Anyone who, with the intention to jeopardize the constitutional order or security of Montenegro or SMN deprives of life the president of SMN, president of a member state, president of the Parliament of SMN, president of the Parliament of a member state, president of the Government of a member state, president of the SMN Court, president of the Constitutional Court of a member state, president of the Supreme Court of a member state or the highest state prosecutor of a member state, shall be liable to imprisonment for a minimum term of ten years or a thirty-years imprisonment..

Armed rebellion

Article 364

(1) Anyone who participates in an armed rebellion directed at jeopardizing the constitutional order, security or territorial integrity of Montenegro and SMN, shall be punished by imprisonment for a term of three to fifteen years.

(3) Anyone who organizes or leads an armed rebellion, shall be punished by an imprisonment sentence of five to fifteen years.

Terrorism

Article 365

Anyone who, with the intention of endangering the constitutional order and security of Montenegro or SMN causes explosion or fire or undertakes other dangerous measures or kidnaps a person, or commits another act of violence or threats to undertake some dangerous action or to use nuclear, chemical, bacteriological or other dangerous substance and whereby may cause fear or feeling of insecurity of citizens shall be punished by imprisonment for a term of three to fifteen years.

Diversions

Article 366

Anyone who, with the intention to endanger the constitutional order or security of Montenegro or SMN destroys, sets on fire to or damages in some other way an industrial, agricultural or some other industrial facilities, means of traffic, equipment or plant, telecommunication system device, water, gas or power supply system plant, dam, depository, construction site, building or some other object of greater significance for the security or supply of citizens or for economy or for the functioning of public services, shall be punished by imprisonment for a term of three to fifteen years.

Sabotage

Article 367

Anyone who, with the intention to endanger the constitutional order or security of Montenegro or SMN, in a covered, perfidious or other similar way in performing his/her official duty or work obligations, causes damage exceeding the amount of € 15.000 to the state authority or organization he/she is employed in, or to any other state authority or organization, shall be punished by imprisonment for a term of three to fifteen years.

Espionage

Article 368

(1) Anyone who secret military, commercial or official data or documents reports or hands over or makes them available to a foreign state, foreign organization or a person in their service, shall be punished by imprisonment for a term of three to fifteen years.

(2) Anyone who for a foreign state or organization creates an intelligence service in Montenegro or who manages it shall be punished by imprisonment for a term of five to fifteen years.

(3) Anyone who joins a foreign intelligence service, collects data for it or in some other way supports its work, shall be punished by imprisonment for a term of two to ten years.

(4) Anyone who obtains secret data or documents with the intention to report them or deliver them to a foreign state, a foreign organization or a person in their service, shall be punished by imprisonment for a term of one to eight years.

(5) If due to acts as of Paragraphs 1 and 2 of this Article, severe consequences occurred for the security, economic or military power of the country, the offender shall be liable to imprisonment for a minimum term of ten years.

(6) Confidential are considered to be all those military, commercial or official data or documents which are by law, some other regulation or decision of a competent authority passed in conformity with law, proclaimed to be confidential, as well as data and documents which are available only to a certain circle of people, and the revealing of which would cause or could cause harmful consequences for the security, defence or for the political, military or economic interests of the country.

Revealing a state secret

Article 369

(1) Anyone who without an authorization reports, hands over or makes available to an unauthorized person data or documents entrusted with him/her, or data or documents s/he obtained in some other way, and which represent a state secret, shall be punished by imprisonment for a term of two to ten years.

(2) If an act as of Paragraph 1 of this Article is committed during immediate danger of war, an armed conflict or a state of emergency or have led to the security, economic or military power of Montenegro or SMN to be endangered shall be punished by imprisonment for a term of three to fifteen years.

(3) If an act as of Paragraph 2 of this Article is committed out of negligence, the offender shall be punished by imprisonment for a term of one to six years.

(4) Data or documents are considered a state secret if they are proclaimed as such by law, by some other regulation or decision of a competent authority passed in conformity with law, and the revealing of which would cause or could cause harmful consequences to the security, defence and the political, military and economic interests of Montenegro and SMN.

(5) A state secret referred to in Paragraph 4 of this Article are not considered data or documents which are directed to endangering the constitutional order and security of Montenegro and SMN.

Causing national, race and religious hatred, divisions and intolerance

Article 370

(1) Anyone who causes and spreads national, religious or race hatred, divisions or intolerance among people, national minorities or ethnic groups living in Montenegro, shall be punished by imprisonment for a term of six months to five years.

(2) If an act as of Paragraph 1 of this Article is done by coercion, maltreatment, endangering of safety, exposure to mockery of national, ethic or religious symbols, by damaging other person's goods, by desecration of monuments, memorial-tablets or tombs, the offender shall be punished by imprisonment for a term of one to eight years.

(3) Anyone who commits an act referred to in Paragraphs 1 and 2 of this Article by abusing his/her position or authorities or if as the result of these acts riots, violence or other severe consequences for the joint life of people, national minorities or ethnic groups living in

Montenegro occur, shall be punished for an act as of Paragraph 1 of this Article by an imprisonment sentence for a term of one to eight years, and for an act as of Paragraph 2 by imprisonment of two to ten years.

Violation of territorial sovereignty

Article 371

Anyone who by breaching the rules of international law bursts into the territory of Montenegro or the territory of SMN , shall be punished by imprisonment for a term of one to eight years.

Associating for unconstitutional activities

Article 372

(1) Anyone who establishes a group or any other association in order to commit criminal acts referred to in Articles 357 to 362, Articles 364 to 367 and Article 373 Paragraph 3 of the present Code, shall be liable to a sentence prescribed for the act for which the association is organized.

(2) Sentence as of Paragraph 1 of this Article shall be imposed on anyone who makes an agreement with another to commit any of the acts referred to in that Paragraph, and a reduced punishment can be imposed on him/her.

(3) Anyone who becomes a member of an association as of Paragraph 1 of this Article shall be punished by imprisonment for a term of six months to five years.

(4) Anyone who committed an act as of Paragraph 1 of this Article, who by revealing the association or in any other way prevents criminal acts envisaged in Paragraph 1 of this Article to be committed, shall be liable to imprisonment for a term not exceeding three years, and s/he can be acquitted of punishment.

(5) A member of an association as of Paragraph 3 of this Article who reveals the existence of an association before committing a criminal act referred to in Paragraph 1 of this Article, in it or on behalf of it, shall be liable to imprisonment for a maximum term not exceeding one year, and s/he can be acquitted of punishment.

Preparing acts against the constitutional order and security of Montenegro and SMN

Article 373

(1) Anyone who prepares the committing of criminal acts referred to in Articles 357 to 367 and Article 368 Paragraphs 1 and 2 of the present Code, shall be punished by imprisonment for a term of one to five years.

(2) Anyone who directs or sends to the territory of Montenegro or the territory of SMN persons or arms, explosive, poisons, equipment, ammunition or other material, with the intention of committing one or more criminal acts referred to in this Chapter, shall be punished by an imprisonment sentence for a term of two to ten years.

(3) Preparations as of Paragraph 1 of this Article include acquiring or rendering usable means for committing the criminal act, removing obstacles for committing the criminal act, making arrangements, planning or organizing with others committing of the criminal act or of other activities for creating conditions for immediate execution of the criminal act.

Grave offences against the constitutional order and security of Montenegro and SMN

Article 374

(1) For a criminal act as of Articles 359 to 361 and Articles 364 to 367 of the present Code, due to which one or more persons died, or which brought into danger life of people, or is followed by brutal violence or widespread devastation or endangered the security of economic or military power of the country, the offender shall be liable to imprisonment for a minimum term of ten years.

(2) If on the occasion of committing an act referred to in Paragraph 1 of this Article the offender intentionally deprived of life one or more persons, the offender shall be liable to imprisonment for a minimum term of ten years or a thirty - years imprisonment..

(3) Punishment as of Paragraph 2 of this Article shall also be imposed on anyone committing a criminal act referred to in Article 357, Articles 359 to 362, Articles 364 to 368, Articles 372 and 373 Paragraph 2 of the present Code during immediate war danger, state of war, armed conflict or state of emergency.

CHAPTER THIRTY

CRIMINAL OFFENCES AGAINST STATE AUTHORITIES

Prevention of a person acting in an official capacity from performance of an official act

Article 375

- (1) Anyone who by force or threat to use force prevents a person acting in an official capacity performance of an official act undertaken within his/her regular powers, or forces such a person in the same manner into performance of an official act, shall be liable to imprisonment for a term not exceeding three years.
- (2) If during commission of an offence referred to in Paragraph 1 of this Article, the offender insults or maltreats an official or causes him/her a light bodily injury or threats to use weapons, s/he shall be liable to imprisonment of three months to three years.
- (3) Anyone who commits an offence referred to in Paragraphs 1 and 2 of this Article to a judge or a state prosecutor during performance of their judicial and prosecutorial duties respectively or to an official in performing the duty related to public or state security or the duty of preserving public peace and order, preventing and detecting a criminal offence and capture of the perpetrator of a criminal offence or safeguarding persons deprived of their liberty, shall be liable to imprisonment of six months to five years.
- (4) An attempt of criminal offences referred to in Paragraphs 1 and 2 of this Article shall be subject to punishment.
- (5) If a perpetrator of criminal offences referred to in Paragraphs 1 to 3 of this Article was provoked by unlawful or rude acting of an official, s/he can be acquitted from punishment.

Attack on a person acting in an official capacity during performance of an official duty

Article 376

- (1) Anyone who attacks or threatens to attack an official in the performance of his official duty, shall be punished by imprisonment for a term not exceeding three years.
- (2) If during the commission of criminal offences referred to in Paragraph 1 of this Article, an official suffers a light bodily injury or is threatened by use of weapons, the perpetrator shall be punished by imprisonment for a term of three months to three years.
- (3) If a criminal offence referred to in Paragraphs 1 and 2 of this Article is committed to a judge or a state prosecutor, in relation to their judicial or prosecutorial duty or to an official in performance of his duty of public or state security, the perpetrator shall be liable to imprisonment for a term of six months to five years.
- (4) An attempt of criminal offences referred to in Paragraphs 1 and 2 of this Article shall be subject to punishment.
- (5) A perpetrator of crimes referred to in Paragraphs 1 to 3 of this Article who was provoked by unlawful or rude acting of a person acting in an official capacity can be acquitted from punishment.

Participation in a group preventing an official from performance of an official act

Article 377

- (1) Anyone who is a part of group preventing by a joint action a person acting in an official capacity from performance of an official act or forcing such a person in the same manner into performance of an official act, shall be punished for participation in such a group by imprisonment for a term not exceeding two years.
- (2) An attempt of criminal offences referred to in Paragraph 1 of this Article shall be subject to punishment.
- (3) The leader of a group performing the criminal offence referred to in Paragraphs 1 and 2 of this Article, shall be punished by imprisonment of six months to five years.

Appeals for resistance

Article 378

- (1) Anyone who makes an appeal on others for resistance or disobedience to lawful decisions or measures of state authorities or to a person acting in an official capacity while performing his/her official duty, shall be liable to imprisonment for a term of six months to five years.
- (2) If due to act referred in paragraph 1 of this Article failure or significant disturbances to lawful decisions or measures of state authorities has been produced, the perpetrator shall be punished by imprisonment for a term of six months to five years.

Failure to obey orders to break up

Article 379

(1) Anyone who fails to part from a group of people that an authorized official or an authorized military person has asked to break up in circumstances threatening public order, shall be liable to a fine or imprisonment for a term not exceeding three months.

(2) The leader of group who has committed the criminal offence referred to in Paragraph 1 of this Article, shall be liable to a fine or imprisonment for a term not exceeding two years.

Failure to take part in eliminating common danger

Article 380

Anyone who disobeys the order of a competent authority or other body without a justified reason and refuses to participate in eliminating the danger caused by fire, flood, earthquake or other disasters, shall be liable to a fine or imprisonment for a term not exceeding three months.

Removal and destruction of official seal and sign

Article 381

(1) Anyone who removes or damages an official seal or a sign that a person acting in an official capacity has placed on an object or premises for security reasons or who without removing or damaging a seal or a sign, enters such premises or opens an object with an official seal or sign on it, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) An attempt of a criminal offence referred to in Paragraph 1 of this Article shall be subject to punishment.

Seizure or destruction of official seal and document

Article 382

(1) Anyone who unlawfully seizes, hides, destroys, damages or in any other manner makes useless an official seal, book, file or document belonging to a state authority, company, institution or other organization with public authorities or held by them, shall be punished by imprisonment for a term not exceeding three years.

(2) An attempt of a criminal offence referred to in Paragraph 1 of this Article shall be subject to punishment.

False representation

Article 383

(1) Anyone who, with the intention of obtaining for himself/herself or another any benefit or causing damage to another, falsely represents himself/herself as an official or military person or who wears any signs of an official or military person without authorization, shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person performing an act only a certain official or military person has authority over.

Self-help

Article 384

(1) Anyone who arbitrarily acquires a right on his/her own or a right s/he considers is pertaining to him/her, shall be liable to a fine or imprisonment for a term not exceeding six months.

(2) If a criminal offence referred to in Paragraph 1 of this Article was committed by use of force or threat, the perpetrator shall be liable to imprisonment for a term of three months to three years.

(3) If a criminal offence referred to in Paragraph 1 of this Article was committed by threat of murder or heavy bodily injury, the perpetrator shall be punished by imprisonment for a term of six months to five years.

(4) Anyone who commits a criminal offence referred to in Paragraphs 1 to 3 of this Article for another person, shall be punished by a penalty prescribed for such an offence.

(5) If a criminal offence referred to in Paragraph 1 and Paragraph 4 with regard to Paragraph 1 of this Article was committed to the detriment of citizens, the prosecution shall be initiated by a private person.

CHAPTER THIRTY ONE

CRIMINAL OFFENCES AGAINST JUSTICE

Failure to report preparation of a criminal offence

Article 385

- (1) Anyone who has information that preparation is underway for commission of a criminal offence punishable under law by imprisonment of five years or more, but fails to report it when such an offence could have been prevented, and the crime is attempted or committed, shall be punished by a fine or imprisonment for a term not exceeding one year.
- (2) For failure to report preparation of a criminal offence punishable by law by a prison sentence of thirty years, the perpetrator shall be punished by imprisonment for a term of three months to three years.
- (3) For a crime referred to in Paragraph 1 of this Article exempted from punishment shall be persons to whom the perpetrator is: a spouse, a partner in a permanent extra-marital relationship, direct relative by blood, brother or sister, adoptive parent or adoptive child, as well as a spouse of one of the above mentioned persons, or a person living with one of such persons in a permanent extra-marital relationship.

Failure to report a criminal offence and offender

Article 386

- (1) Anyone who has information that a person has committed a criminal offence punishable under law by a prison penalty of thirty years or who knows that such a criminal offence has been committed but fails to report it before such a criminal offence and perpetrator are detected, shall be punished by imprisonment for a term not exceeding two years.
- (2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on an official or responsible person who knowingly fails to report the crime he has been informed about in the performance of his/her official duty, if it is a criminal offence punishable under law by imprisonment of five years or more.
- (3) For failure to report a crime or perpetrator referred to in Paragraphs 1 and 2 of this Article exempted from punishment shall be persons to whom the perpetrator is: a spouse or a partner in a permanent extra-marital relationship, direct relative by blood, brother or sister, adoptive parent or adoptive child, as well as a spouse to one of the above mentioned persons or a person living with one of such persons in a permanent extra-marital relationship, as well as a defence counsel, doctor or religious confessor of the perpetrator.

Assistance to perpetrator after the commission of a criminal offence

Article 387

- (1) Anyone who hides the perpetrator of a criminal offence or assists the perpetrator by hiding means or traces of a criminal offence, or assists him/her in any other manner to avoid detection, and who hides a convicted person or takes any other measures with the intention to avoid the enforcement of a sanction, a security measure, or referral to an educational or correctional institution, shall be liable to a fine or imprisonment for a term not exceeding two years.
- (2) Anyone who assists the perpetrator of a criminal offence punishable under law by imprisonment for a term exceeding five years, shall be liable to imprisonment for a term of three months to five years.
- (3) Anyone who assists the perpetrator of a criminal offence punishable under law by a prison sentence of thirty years, shall be liable to imprisonment for a term of one to eight years.
- (4) Punishment pronounced for a criminal offence referred to in Paragraph 1 of this Article shall not be more severe in terms of kind or duration than the punishment prescribed for a criminal offence committed by a person who has been provided assistance.
- (5) For criminal offences referred to in Paragraphs 1 to 3 of this Article exempted from punishment shall be persons to whom the perpetrator is: a spouse or a partner in a permanent extra-marital relationship, direct relative by blood, brother or sister, adoptive parent or adoptive child, as well as a spouse to one of the above mentioned persons or a person living with one of such persons in a permanent extra-marital relationship.

False reporting

Article 388

- (1) Anyone who reports a person to have committed a crime prosecuted *ex officio*, and who knows that person is not the perpetrator of that crime, shall be liable to imprisonment for a term of three months to three years.
- (2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person who by planting traces of crime or in any other manner causes that a criminal procedure is initiated for a criminal offence prosecuted *ex officio* against a person who s/he knows is not the perpetrator of that criminal offence.

(3) Anyone who reports himself/herself for having committed a crime prosecuted *ex officio*, although s/he knows that s/he has not committed such a criminal offence, shall be liable to a fine or imprisonment for a term not exceeding one year.

(4) Punishment referred to in Paragraph 3 of this Article shall also be imposed on a person who reports that a criminal offence prosecuted *ex officio* has been committed, although he knows no such crime has been committed.

False testimony

Article 389

(1) A witness, forensic expert, translator or interpreter who gives a false statement before the court in a disciplinary, petty-crime, administrative or any other procedure prescribed by law, shall be liable to imprisonment for a term not exceeding three years.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a party who during presentation of evidences as the witness in a court or an administrative procedure gives a false statement, when such a statement serves as grounds for the decision made in that procedure.

(3) If a false statement was given in a criminal procedure, the perpetrator giving such a statement shall be punished by imprisonment for a term of three months to five years.

(4) If due to an offence referred to in Paragraph 3 of this Article particularly grave consequences have occurred for the accused, the perpetrator shall be punished by imprisonment for a term of one year to eight years.

(5) If the perpetrator revokes the false statement on his own free will before the final decision is made, s/he shall be liable to a fine or imprisonment for a term not exceeding three months, and can also be released from any punishment.

Obstructing of evidences

Article 390

(1) Anyone who, with the intention to prevent or hinder the collection of evidence, hides, destroys, damages or partially or completely makes useless a someone else's document or other objects serving as a proof, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person who removes, destroys, damages, moves or relocates a borderline stone, land registry mark or any other mark indicating ownership of real estates or right to use of water, or a person who on the same purpose places such a mark.

Violation of confidentiality of procedure

Article 391

(1) Anyone who discloses without authorization information obtained in a court, petty crime, administrative or other legally defined procedure, when such information cannot be publicized by law or has been declared a secret by the decision of a court or other competent authority, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person who, without the permission of the court, publicizes the course of the criminal procedure taken against juveniles or the decision passed in such a procedure or who publicizes the name of a juvenile who is being prosecuted or the data revealing identity of the juvenile.

Riot of arrested persons

Article 392

(1) Persons who have been arrested under law and who gather with the intention to free themselves by force, or who jointly attack persons entrusted with the duty of their supervision, or make such officers by force or threat of immediate force to do or fail to do something that is in contravention of their duty, shall be liable to imprisonment for a term not exceeding three years.

(2) The offender referred to in Paragraph 1 of this Article who used force or threat, shall be punished by imprisonment for a term of six months to five years.

Escape of arrested persons

Article 393

A person who has been arrested under the law who by use of force against another or by threatening to directly attack life and body of another escapes, shall be punished by imprisonment for a term from three months to five years.

Enabling escape of arrested persons

Article 394

(1) Anyone who by use of force, threat, defraud or in some other way, enables a person arrested under law to escape, shall be punished by imprisonment for a term of three months to five years.

(2) If an offence referred to in Paragraph 1 of this Article is done jointly by several persons or if escape of several persons is enabled, the offender shall be punished by imprisonment for a term of one year to eight years.

Failure to enforce a decision

Article 395

A person acting in an official capacity or a responsible person who refuses to enforce a final court decision or fails to enforce it within the term specified by law or decision, shall be liable to a fine or imprisonment for a maximum term not exceeding two years.

Unlawful enabling another to engage in profession, perform a function, duty, tasks and activities

Article 396

Anyone who enables another to engage in a profession, perform a function, duty, tasks or activities, although s/he knew that such engagement or performance is in contravention of a final decision against that person imposing a security measure or protective measure or that such a ban took effect as a legal consequence of the judgment, shall be liable to a fine or imprisonment for a term not exceeding two years.

Unlicensed practice of law

Article 397

Anyone who, without required qualifications, provides legal services against payment, shall be liable to a fine or imprisonment for a term not exceeding two years.

CHAPTER THIRTY TWO

CRIMINAL OFFENCES AGAINST PUBLIC ORDER

Instigation of panic and public disorder

Article 398

(1) Anyone who by disclosing or spreading false information or statements causes panic or seriously disrupts public order, impedes or hampers the enforcement of decisions and implementation of measures of state authorities or organizations entrusted with public authorities, shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) If an offence referred to in Paragraph 1 of this Article is done through media or other means of public information or other similar means or in a public meeting, the offender shall be punished by imprisonment for a term not exceeding three years.

Acts of violence

Article 399

(1) Anyone who, by rude insults or maltreatment of others, by acts of violence over another person or by causing fight, or by rude and arrogant conduct significantly endangers the peace of citizens or disturb the public order, shall be liable to imprisonment for a term of three months to three years.

(2) If an offence referred to in Paragraph 1 of this Article is done in a group or when the offence causes a light bodily injury or seriously humiliate citizens, the offender shall be liable to imprisonment for a term of six months to five years.

Conspiracy to commit a crime

Article 400

Anyone who conspires with another to commit a crime punishable by imprisonment of five years or more, shall be liable to a fine or imprisonment for a term not exceeding one year.

Criminal association

Article 401

(1) Anyone who organizes a group or other association with a view to commit criminal offences punishable by imprisonment of one year or more, shall be liable to imprisonment for a term not exceeding three years.

(2) If a crime referred to in Paragraph 1 of this Article refers to an association with an aim to commit crimes punishable by imprisonment of five years or more, the organizer of the association shall be liable to imprisonment for a term of one year to eight years, and a member of the association by imprisonment for a term not exceeding two years.

(3) If an offence referred to in Paragraph 1 of this Article refers to an association with the aim to commit crimes punishable by imprisonment of fifteen years, the organizer of the association shall be liable to imprisonment for a term of two to twelve years, and a member of the association by imprisonment for a term not exceeding three years.

(4) If an offence referred to in Paragraph 1 of this Article refers to an association with the aim to commit crimes punishable by imprisonment of twenty years or a prison sentence of thirty years, the organizer of the association shall be liable to imprisonment for a minimum term of ten years or a prison sentence of thirty years, and a member of the association by imprisonment for a term of six months to five years.

(5) The organizer of the association referred to in Paragraphs 1 to 4 of this Article who by reporting the association or preventing in some other way the commission of criminal offences for which the association was set up, shall be liable to imprisonment for a term not exceeding three years, and may also be acquitted of punishment.

(6) A member of the association referred to in Paragraphs 2 to 4 of this Article who reports the association before s/he as a member of the association or for the association has committed a crime referred to in Paragraphs 2 to 4 of this Article for which the association was founded, shall be liable to a fine or imprisonment for a term not exceeding one year, and may also be acquitted of punishment.

Manufacture and acquisition of weapons and means intended for commission of criminal offences

Article 402

(1) Anyone who manufactures, procures or provides another with weapons, explosives, means required for their manufacture or poison that he knows are intended for the commission of a criminal offences, shall be punished by imprisonment for a term of six months to five years.

(2) Anyone who manufactures or hands over to another means of burglary or housebreaking, although s/he knows that they are intended for commission of a criminal offences, shall be liable to a fine or imprisonment for a term not exceeding one year.

Unlawful keeping of weapons and explosives

Article 403

(1) Anyone who without authorization manufactures, sells, procures, exchanges, carries or keeps firearms, ammunition or explosives, shall be liable to imprisonment for a term not exceeding three years.

(2) If the object referred to in Paragraph 1 of this Article is a piece of firearms, ammunition, explosives, a dispersion or gas weapon whose manufacture, sale, purchase, exchange, carrying or keeping is forbidden to citizens, the offender shall be liable to imprisonment for a term of six months to five years.

(3) If the object referred to in Paragraphs 1 and 2 of this Article represents a larger quantity of arms or means or it is a weapon or other means of large destructive power, the offender shall be liable to imprisonment for a term of one year to eight years.

Participation in a group committing a crime

Article 404

(1) Anyone who participates in a group that by joint action kills another, or causes to another a heavy bodily injury, commits arson, significantly damages property or commits other criminal offence punishable by imprisonment of five years or more, or that attempts to commit one of these crimes, shall be punished for sole participation by imprisonment for a term of three months to five years.

(2) The leader of the group committing a crime referred to in Paragraph 1 of this Article, shall be liable to imprisonment for a term of one year to eight years.

Illegal crossing of the state border

Article 405

(1) Anyone who without the provided permission crosses or tries to cross the state border of SMN, under arms or by use of force, shall be liable to imprisonment of a term not exceeding one year.

(2) Anyone who deals with illegal transfer of other persons across the border of SMN or who enables another for gain to illegally cross the border, shall be liable to imprisonment for a term of six months to one year.

Abuse of sign for help and sign for danger

Article 406

Anyone who abuses the sign for help or sign for danger or who calls for help for no good reason thus unnecessarily causing the measures of state authorities, fire prevention or other competent organization or who causes disorder in traffic, shall be punished by a fine or imprisonment for a term not exceeding six months.

Unauthorized organization of games of chance

Article 407

(1) Anyone who without a licence issued by a competent authority organizes games of chance, shall be liable to a fine or imprisonment for a term not exceeding three years.

(2) Whoever without authorization sells lottery tickets or accepts payment for games of chance organized abroad, shall be liable to a fine or imprisonment for a term not exceeding two years.

(3) A person who organizes games of chance or participates in a game referred to in Paragraph 1 of this Article using deceit, shall be liable to by imprisonment for a term of three months to five years.

(4) Objects intended or used for commission of offences referred to in Paragraphs 1 to 3 of this Article, as well as money and other objects used in games of chance, shall be confiscated.

Unlicensed practice of a specific profession

Article 408

Anyone who without a licence and for gain engages in a practice for which law or other regulations enacted in accordance with law require a licence to be issued by a competent authority or body, shall be liable to a fine or imprisonment for a term not exceeding one year.

Unauthorized ownership and use of a radio and television station

Article 409

Anyone who owns or uses a radio or television station in contravention of regulations on communication systems, shall be liable to a fine or imprisonment for a term not exceeding one year.

Desecration of corpse

Article 410

Anyone who without authorization digs out, takes away, hides or destroys a corpse, its part or ashes and other remains of the deceased, shall be punished by a fine or imprisonment for a term not exceeding one year.

Desecration of grave

Article 411

(1) Anyone who without authorization digs out, demolishes, damages or significantly devastates a grave or other place where the deceased are buried, shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person who without authorization destroys, damages or removes or significantly devastates a gravestone or other monument to the deceased.

(3) If offences referred to in Paragraphs 1 and 2 of this Article contain characteristics of a some more serious crime, the offender shall be liable to punishment for such an offence.

CHAPTER THIRTY THREE

CRIMINAL OFFENCES AGAINST LEGAL INSTRUMENTS

Falsifying a document

Article 412

(1) Anyone who creates a false document or issues a false document or changes a real document with the intention to use it as a real one or whoever uses such false or untruthful document as a true one or has obtained it for use, shall be liable to imprisonment for a term not exceeding three years.

(2) If the offence referred to in Paragraph 1 of this Article is done on in regards to a public document, a will, bill of exchange, cheque, public or official record or other record that must be kept under law, the offender shall be punished by imprisonment for a term of three months to five years.

(3) Attempt of criminal offences referred to in Paragraph 1 of this Article shall be subject to punishment.

Special cases of falsifying documents

Article 413

The following persons shall be considered to be falsifying documents and shall be punished pursuant to Article 412 of the present Code:

- 1) anyone who without authorization fills in a statement that is affecting the legal relations on a paper, blank form or any other document to which a someone has affixed his/her signature,
- 2) anyone who deceives another with regard to the content of a document so as to make another affix his/her signature believing that s/he is signing another document or under a different content;
- 3) anyone who issues a document on behalf of another without authorization of that person or on behalf of a person who does not exist,
- 4) anyone who, as an issuer of a document, places next to his signature the position, rank or title although he holds no such position, rank or title, and this is crucial for the force of evidence of that document,
- 5) anyone who produces a document using a genuine seal or sign without authorization.

Falsifying an official document

Article 414

(1) An person acting in an official capacity i.e. an official who enters false data or fails to enter important data in an official document, record or file, or who certifies with his signature or official seal an official document, record or file with false content, or who with his signature or official seal enables another to produce an official document, record or file with false content, shall be punished by imprisonment for a term of three months to five years.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on an official who uses a false document, record or file as if they were truthful, or who destroys, hides or significantly damages or make useless in another way an official document, record, or file.

(3) A person in charge of a company, institution or other organization who commits an offence referred to in Paragraphs 1 and 2 of this Article, shall be liable to punishment prescribed for that offence.

Inducement to certify false content

Article 415

(1) Anyone who deceives a competent authority to induce it to certify in a public document, minutes or record any false information that can be used as evidence in legal practice, shall be punished by imprisonment for a term of three months to five years.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person who uses such document, minutes or record although s/he knows they are false.

CHAPTER THIRTY FOUR

CRIMINAL OFFENCES AGAINST OFFICIAL DUTY

Abuse of official status

Article 416

(1) A person acting in an official capacity who with the intention of providing a gain for himself or another or causing damage to another uses his official status or authority, exceeds the limits of his authority or fails to do his official duty, shall be liable to imprisonment for a term not exceeding three years.

(2) If acts referred to in Paragraph 1 of this Article have caused significant violation of rights of another or have been used to acquire an illicit material gain or have caused considerable damage, the offender shall be liable to imprisonment for a term of three months to five years.

(3) If the value of acquired illicit material gain exceeds the amount of € 3.000, the offender shall be liable to imprisonment for a term of one year to eight years.

(4) If the value of acquired illicit material gain exceeds the amount of € 30.000, the offender shall be liable to imprisonment for a term of two to ten years.

(5) A person in charge of a company, institution or other organization who commits offences referred to in Paragraphs 1 to 4 of this Article, shall be liable to a punishment prescribed for such offences.

Unconscientious performance of office

Article 417

(1) An official who by violation of law or other regulations or general enactments, by failure to do supervision or in some other manner obviously unconscientiously acts in the performance of his/her office, although he was aware or had the duty and had to be aware that such acts may cause serious violation of rights of another or damage to property of another, when such a violation or damage exceeding the amount of € 3.000 actually takes place, shall be liable to a fine or imprisonment for a term not exceeding three years.

(2) If acts referred to in Paragraph 1 of this Article have caused serious violation of rights of another or property damage exceeding the amount of € 30.000, the offender shall be punished by imprisonment for a term of six months to five years.

(3) A responsible person in an institution or other organization, with the exception of those engaged in a business activity, who commits offences referred to in Paragraphs 1 to 2 of this Article shall be liable to a punishment prescribed for such an offence.

Unlawful collection and payment

Article 418

An official who collects money from another who is not obliged to pay or charges another more than s/he has to pay, or who when paying another or handing over to another pays or hands over less than he is obliged to, shall be liable to a fine or imprisonment for a term not exceeding three years.

Fraud in service

Article 419

(1) An official who during in the performance of his service and with the intention of acquiring for himself or another an illicit material gain by submitting false statements of account or in some other way deceits an authorized person to make unlawful payment, shall be punished by imprisonment for a term of six months to five years.

(2) If an illicit material gain acquired as a result of an offence referred to in Paragraph 1 of this Article exceeds the amount of € 3.000, the offender shall be punished by imprisonment for a term of one year to eight years.

(3) If an illicit material gain acquired as a result of an offence referred to in Paragraph 1 of this Article exceeds the amount of € 30.000, the offender shall be punished by imprisonment for a term of two to ten years.

(4) A responsible person in a company, institution or other organization, who commits offences referred to in Paragraphs 1 to 3 of this Article shall be liable to a punishment prescribed for such an offence.

Embezzlement

Article 420

(1) A person who, with the intention of acquiring illicit material gain for himself/herself or another, appropriates money, securities or other movable things entrusted to him by virtue of his office or under the terms of his position in a state authority, company, institution or other organization or store, shall be punished by imprisonment for a term of six months to five years.

(2) If illicit material gain acquired as a result of an offence referred to in Paragraph 1 of this Article exceeds the amount of € 3.000, the offender shall be punished by imprisonment for a term of one to eight years.

(3) If illicit material gain acquired as a result of an offence referred to in Paragraph 1 of this Article exceeds the amount of € 30.000, the offender shall be punished by imprisonment for a term of two to ten years.

Unauthorized use

Article 421

A person who makes an unauthorized use of money, securities or other movables entrusted to him by virtue of his office or under terms of his position in a state authority, company, institution, or other organization or store or without authorization confers such things to another for use, shall be punished by imprisonment for a term of three months to five years.

Illegal mediation

Article 422

(1) Anyone who accepts a reward or any other benefit for using his official or social position to intercede that an official act be or not be performed, shall be punished by imprisonment for a term of three months to three years.

(2) Anyone who by using his official or social position or influence, intercedes that an official act be performed that should not be performed or that an official act that must be performed, shall be punished by imprisonment for a term of six months to five years.

(3) If a reward or any other benefit has been received for influence referred to in Paragraph 2 of this Article, the offender shall be punished by imprisonment for a term of one to eight years.

(4) Illicit reward and property gain shall be seized.

Passive bribery

Article 423

(1) A person acting in an official capacity who requests or receives a gift or any other benefit, or who accepts a promise of gift or any benefit for himself/herself or another for agreeing to perform within the scope of his/her official powers an act he should not perform, or not perform an official act which he should perform, shall be punished by imprisonment for a term of two to twelve years.

(2) A person acting in an official capacity who request or receives a gift or other benefit or who accepts a promise of gift or any other benefit for himself/herself or another for agreeing to perform within the scope of his/her official powers an official act he must perform, or not perform an official act he should otherwise not perform, shall be punished by imprisonment for a term of two to eight years.

(3) A person acting in an official capacity who commits a criminal offence referred to in Paragraphs 1 or 2 of this Article in relation to detection of a criminal offence, initiating or conducting a criminal procedure, pronouncement or enforcement of a criminal sanction, shall be punished by imprisonment for a term of three to fifteen years.

(4) An official who requests or accepts a gift or other benefit after having performed or omitted to perform an official act referred to in Paragraphs 1, 2 and 3 of this Article or in relation with it, shall be punished by imprisonment for a term of three months to three years.

(5) A foreign official who commits an offence referred to in Paragraphs 1, 2, 3 and 4 of this Article, shall be liable to a punishment prescribed for such an offence.

(6) A person in charge of a business organization, institution or other organization who commits an offence referred to in Paragraphs 1, 2 and 4 of this Article, shall be liable to a punishment prescribed for such an offence.

(7) Accepted gift or property gain shall be seized.

Active bribery

Article 424

(1) Anyone who gives or promises a gift or other gain to an official who agrees to perform an official act within his/her official powers that he ought not to perform or to omit to perform an official act he ought to perform, or a person who mediates in bribery of an official, shall be punished by imprisonment for a term of six months to five years.

(2) Anyone who gives or promises a gift or other gain to an official who agrees to perform an official act within his/her official powers that he is obliged to perform or to omit to perform an official act he must not perform or who mediates in such a bribery of an official, shall be liable to imprisonment for a term not exceeding three years.

- (3) Provisions of Paragraphs 1 and 2 of this Article shall also be in effect when bribe was given or promised to a foreign official person.
- (4) The offender referred to in Paragraphs 1 and 2 of this Article who had reported the criminal offence before he found out that the crime was detected, can be acquitted from punishment.
- (5) Provisions of Paragraphs 1, 2 and 4 of this Article shall be also in effect when bribe was given or promised to a person in charge of a company, institution or other organization.
- (6) A gift or other benefit seized from a person who has received a bribe can be returned to the person giving the bribe under conditions referred to in Paragraph 4 of this Article.

Disclosure of official secrets

Article 425

- (1) An official who without authorization communicates, conveys or makes available in some other way to another information constituting an official secret, or who obtains such information with the intention of conveying it to an unauthorized person, shall be liable to imprisonment for a term of three months to five years.
- (2) If an offence referred to in Paragraph 1 of this Article has been committed out of greed in respect of particularly confidential information or for the purpose of its disclosure or use abroad, the offender shall be liable to imprisonment for a term of one to eight years.
- (3) If an offence referred to in Paragraph 1 of this Article has been committed by negligence, the offender shall be liable to imprisonment for a term not exceeding three years.
- (4) An official secret shall be understood to mean information or documents that, under law, other regulation or a decision of a competent authority passed in conformity with law, have been proclaimed an official secret whose disclosure would result or could result in detrimental consequences to the office.
- (5) Provisions referred to in Paragraphs 1 to 4 of this Article shall also be applied to a person who has disclosed an official secret after his position of an official ceased.

CHAPTER THIRTY FIVE

CRIMINAL OFFENCES AGAINST HUMANITY AND RIGHTS GUARANTEED UNDER INTERNATIONAL LAW

Genocide

Article 426

Anyone who with the intention of partially or completely destroying a national, ethnic, racial or religious group issues orders for commission of murder or infliction of heavy bodily injuries or serious harm to physical or mental health of group members or forced displacement of population, or placement of the group under such living conditions so as to bring about complete or partial extermination of the group, or taking of measures with which to prevent reproduction among group members, or forced displacement of children into another group, or who commits one of the stated crimes with the same intention, shall be liable to imprisonment for a minimum term of five years or a prison sentence of thirty years.

Crimes against humanity

Article 427

Anyone who in breaching of the rules of international law, as a part of a wider or systematic attack against civil population, orders: murder, placing entire population or its part under such living conditions so as to bring about their complete or partial extermination; enslavement; forced displacement; torture; rape; coercion to prostitution; coercion to pregnancy or sterilization with a view to changing the ethnic composition of population; persecution or expulsion on political, religious, racial, national, ethnic, cultural, sexual or any other grounds; detention or abduction of persons without disclosing information on it so as to deprive them of legal assistance; oppression of a racial group or establishment of domination of one such group over another; or any other similar inhuman acts intended to cause serious suffering or seriously harm health; or who commits one of the crimes listed above, shall be liable to imprisonment for a minimum term of five years or a prison sentence of thirty years.

War crimes against civil population

Article 428

- (1) Anyone who in breaching of the rules of international law during a war, armed conflict or occupation orders an attack upon civil population, settlement, individual civilians, persons incapacitated for combat or members or facilities of humanitarian organizations or peace missions; an attack without a specific target which strikes civil population or civil facilities under special protection of international

law; an attack upon military targets that was expected to cause suffering of civil population or damage to civil facilities in obvious disproportion to expected military effect; orders action against civil population so as to physically injure, torture, inhuman treatment, use in biological, medical and other research experiments or take tissue or organs for transplantation, or to perform other acts causing harm to health or extensive suffering, or order displacement or movement or forced change of nationality or religion; coercion to prostitution or rape; taking of measures of intimidation and terror, taking of hostages, collective punishment, illegal capture and detention; deprivation of right to a just and impartial trial; proclamation of rights and acts of nationals of the opposite party forbidden, suspended or unallowed in court procedure; compelling to service in armed forces of an enemy force or its intelligence service or administration; forced service in armed forces of persons under the age of seventeen; forced labour; starving of population; illegal confiscation, usurpation or destruction of property of civilian population to the extent not justified by military needs; taking an unlawful and excessive contribution and requisition; devaluation of local currency or unlawful issuance of currency; or who commits some of the crimes mentioned above, shall be liable to imprisonment for a minimum term of five years.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person who in violation of international law during a war, armed conflict or occupation orders: an attack upon facilities under special protection of international law or facilities and installations of dangerous power such as dams, embankments, and nuclear power plants; strikes at civil facilities under special protection of international law, places without defence and demilitarised zones; long term and extensive damage to environment that can cause harm to health of population or its survival; or who commits some of the crimes mentioned above.

(3) Anyone who during a war, armed conflict or occupation orders murder against civil population or who commits such a crime, shall be liable to imprisonment for a minimum term of ten years or a prison sentence of thirty years.

(4) Anyone who in violation of international law during a war, armed conflict or occupation, as an occupying force, orders or commits displacement of part of its own civil population to the occupied territory, shall be liable to imprisonment for a minimum term of five years.

(5) Anyone who threatens to commit one or more crimes referred to in Paragraphs 1 and 2 of this Article, shall be liable to imprisonment for a term of six months to five years.

War crimes against the wounded and sick

Article 429

(1) Anyone who in breaching the rules of international law during a war or armed conflict orders against the wounded, sick, shipwrecked or sanitary or religious service staff, infliction of bodily injuries, torture, inhuman treatment, biological, medical or other research experiment, taking of tissue or body organs for transplantation or other acts causing harm to health or serious suffering inflicts or order unlawful destruction or usurpation of large quantities of material, means of transport for medical purpose and stocks of medical institutions or units that is not justified by military needs or who commits some of the above stated crimes, shall be liable to imprisonment for a minimum term of five years.

(2) Anyone who during a war, armed conflict or occupation orders murder against civil population or commits such a crime, shall be punished by imprisonment for a minimum term of ten years or a prison sentence of thirty years.

War crimes against prisoners of war

Article 430

(1) Anyone who breaches the rules of international law orders against prisoners of war the infliction of bodily injuries, torture, inhuman treatment, biological, medical or other research experiments, taking of tissues or body organs for transplantation, or commission of other acts so as to harm health and cause serious suffering or orders coercion to service in armed forces of the enemy, deprivation of right to a just and impartial trial or who commits some of the crimes stated above, shall be punished by imprisonment for a minimum term of five years.

(2) Anyone who during a war, armed conflict, or occupation orders murder against civil population or commits such a crime, shall be liable to imprisonment for a minimum term of ten years or to imprisonment of thirty years.

Organization and instigation to genocide and war crimes

Article 431

(1) Anyone who conspires with another to commit a criminal offence referred to in Articles 426 to 430 of the present Code, shall be punished by imprisonment for a term of three months to three years.

(2) Anyone who organizes a group so as to commit criminal offences referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term of five to fifteen years.

(3) Anyone who becomes a member of the group referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term of one to eight years.

(4) The person committing crimes referred to in Paragraphs 1 and 3 of this Article who discloses the conspiracy or group before as its member or for the group he has committed a crime, or a person committing the crime referred to in Paragraph 2 of this Article who prevents the commission of crimes referred to in Paragraph 1 may be liable to a reduced punishment.

(5) Anyone who calls to or instigates to the commission of criminal offences referred to in Articles 426 to 430 of the present Code, shall be liable to imprisonment for a term of one to ten years.

Use of forbidden means of combat

Article 432

(1) Anyone who during a war or armed conflict orders the use of combat means or combat method forbidden under the rules of international law, or applies them himself, shall be punished by imprisonment for a term of two to ten years.

(2) If the commission of crimes referred to in Paragraph 1 of this Article resulted in death of several persons, the offender shall be liable to imprisonment for a minimum term of five years or to imprisonment of thirty years.

(3) Anyone who instigates or prepares the use of arms referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term of six months to five years.

Manufacture of forbidden weapons

Article 433

(1) Anyone who in violation of law, other regulations or rules of international law, manufactures, purchases, sells, imports, exports or in some other way obtains and provides another with, keeps or transports weapons the manufacture or use of which is forbidden or materials required for their manufacture, shall be punished by imprisonment for a term of one to five years.

(2) An official or responsible person who orders or enables a legal person to engage in activities referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term of one to eight years.

Unlawful killing and wounding of enemies

Article 434

(1) Anyone who in violation of provisions of international law during a war or armed conflict, kills or wounds an enemy who has laid down his weapons or has unconditionally surrendered or was left without any means of defence, shall be punished by imprisonment for a term of one to fifteen years.

(2) If the murder referred to in Paragraph 1 of this Article has been done in a perfidious manner or succumbing to basic instincts, the offender shall be punished by imprisonment for a minimum term of ten years.

(3) If the murder referred to in Paragraph 1 of this Article has been done in a brutal manner or out of mercenary interest or if several persons have died as a result, the offender shall be liable to imprisonment for a minimum term of ten years or to imprisonment of thirty years.

(4) Punishment referred to in Paragraph 3 of this Article shall also be imposed on a person who in breaching of the rules of international law during a war or armed conflict orders that there must be no survivors or combats enemy with that aim in mind.

Unlawful dispossession of articles from the killed

Article 435

(1) Anyone who orders unlawful dispossession of articles from the dead or wounded on battlefield or who commits such an offence, shall be punished by imprisonment for a term of one to five years.

(2) If the crime referred to in Paragraph 1 of this Article has been performed in a cruel way or if the value of dispossessed articles exceeds the amount of € 3.000, the offender shall be punished by imprisonment for a term of one to eight years.

(3) If the value of articles referred to in Paragraph 1 of this Article exceeds the amount of € 30.000, the offender shall be liable to imprisonment for a term of two to ten years.

Violation against a parliamentary

Article 436

Anyone who in breaching of the rules of international law during a war or armed conflict insults, mistreats, holds a parliamentary or his escort or who hinders their return, or in some other way violates their inviolability or orders the commission of such offences, shall be liable to imprisonment for a term from six months to five years.

Cruel treatment of the wounded, sick and prisoners of war

Article 437

Anyone who in breaching of the rules of international law, cruelly treats the wounded, sick or prisoners of war, or who obstructs them or deprives them from using rights they are entitled to according to such rules or orders the commission of such offences, shall be liable to imprisonment for a term of six months to five years.

Unjustified delay of repatriation of prisoners of war

Article 438

Anyone who, in violation of provisions breaching of the rules of international law, after the war or armed conflict ended unjustifiably delays repatriation or prisoners of war or civilians, or who orders such delay, shall be liable to imprisonment for a term of six months to five years.

Destruction of cultural heritage

Article 439

(1) Anyone who, in breaching of the rules of international law during a war or armed conflict destroys cultural or historical monuments or other cultural objects or religious structures or institutions or facilities intended for research, art, education or humanitarian goals or orders commission of such offences, shall be punished by imprisonment for a term of three to fifteen years.

(2) If an offence referred to in Paragraph 1 of this Article resulted in the destruction of a object that enjoys special protection of international law as cultural heritage, the offender shall be punished by imprisonment for a term of five to fifteen years.

Failure to take measures to prevent crimes against humanity and other values protected under international law

Article 440

(1) A military commander or a person performing this function who knows that forces he is commanding or controlling are preparing or have already commenced commission of criminal offences referred to in Articles 426 to 430, Article 432, Articles 434 to 437 and Article 439 of the present Code, but fails to take necessary measures that he could have taken and was obliged to take for the prevention of commission of such crimes, and this results in actual commission of that crime, shall be liable to a sentence prescribed for such a crime.

(2) Another superior who knows that his subordinates are preparing or have commenced commission of crimes referred to in Articles 426 to 430, Article 432, Articles 434 to 437 and Article 439 of the present Code, in the performance of operations under his supervision, and fails to take necessary measures that he could have taken and was obliged to take in order to prevent the commission of crimes, and this eventually results in commission of that crime, shall be liable to a sentence prescribed for such a crime.

(3) If criminal offences referred to in Paragraphs 1 and 2 of this Article have been done in negligence, the offender shall be liable to imprisonment for a term not exceeding three years.

Abuse of international signs

Article 441

(1) Anyone who abuses or carries without authorization the flag or sign of the United Nations Organization or the flag or sign of the Red Cross Organization or signs corresponding to them, or other internationally recognized signs used to mark certain facilities for their protection from military operations or orders that such offences be committed, shall be liable to imprisonment for a term not exceeding three years.

(2) Anyone who commits the offence referred to in Paragraph 1 of this Article in the zone of war operations, shall be punished by imprisonment for a term of six months to five years.

Aggressive war

Article 442

(1) Anyone who calls to or instigates aggressive war, shall be punished by imprisonment for a term of two to twelve years.

(2) Anyone who orders waging aggressive war, shall be liable to imprisonment for a minimum term of ten years or a prison sentence of thirty years.

Racial and other discrimination

Article 443

(1) Anyone who, on grounds of a difference in race, colour of skin, nationality or ethnic origin, or some other individual peculiarity violates fundamental human rights and freedoms guaranteed by generally recognized principles of the international law and international treaties ratified by SMN, shall be punished by imprisonment for a term of six months to five years.

(2) The punishment referred to in Paragraph 1 of this Article shall be imposed on persons who persecutes organizations or individuals for their efforts to ensure equality of people.

(3) Anyone who spreads ideas about the superiority of one race over another, or promotes racial hatred, or instigate racial discrimination, shall be punished by imprisonment for a term of three months to three years.

Trafficking in human beings

Article 444

(1) Anyone who by force or threat, deceit or keeping in delusion, by abuse of authority, trust, relationship of dependency, difficult position of another person or by keeping back identification papers or by giving or receiving money or other benefit for the purpose of obtaining consent of a person having control over another: recruits, transports, transfers, hands over, sells, buys, mediates in sale, hides or keeps another person for exploitation of work, submission to servitude, commission of crimes, prostitution or begging, pornographic use, taking away a body part for transplantation or for use in armed conflicts shall be punished by imprisonment for a term of one to ten years.

(2) If the offence referred to in Paragraph 1 of this Article is committed to a juvenile person, the offender shall be liable to imprisonment prescribed for that offence, even if there was no force, threat or any other of the stated methods present in the commission of the crime.

(3) If the offence referred to in Paragraph 1 of this Article is committed to a juvenile, the offender shall be liable to imprisonment for a minimum term of three years.

(4) If offences referred to in Paragraphs 1 and 3 of this Article have caused serious bodily injuries, the offender shall be liable to imprisonment for a term of one year to twelve years.

(5) If offences referred to in Paragraphs 1 and 3 of this Article have caused death of one person or more, the offender shall be liable to imprisonment for a minimum term of ten years.

(6) Anyone who deals with committing offences referred to in Paragraphs 1 to 3 of this Article or participates in their organised commission together with several other persons shall be liable to imprisonment for a minimum term of five years.

Trafficking in children for adoption

Article 445

(1) Anyone who abducts a person who has not yet reached the age of fourteen for adoption in contravention of current regulations or whoever adopts such a person or mediates in such adoption or whoever for that purpose buys, sells or hands over another person who has not yet reached the age of fourteen or transports, provides accommodation for or hides such a person who has not reached the age of fourteen, shall be punished by imprisonment for a term of one to five years.

(2) Anyone who deals with activities referred to in Paragraph 1 of this Article or participates in their organized commission together with several other persons, shall be punished by imprisonment for a minimum term of three years.

Submission to slavery and transportation of enslaved persons

Article 446

(1) Anyone who breaching the rules of international law put another person into slavery or other similar position or keeps another person in such a position, or buys, sells, hands over to another person or mediates in buying, selling or handing over of such a person or induces another person to sell own freedom or freedom of persons he/she supports or looks after, shall be punished by imprisonment for a term of one year to ten years.

(2) Anyone who transports persons in the position of slavery or other similar position from one country to another shall be punished by imprisonment for a term of six months to five years.

(3) For offences referred to in Paragraphs 1 and 2 of this Article committed to a juvenile person, the offender shall be punished by imprisonment for a term of five to fifteen years.

International terrorism

Article 447

(1) Anyone who, with the intention of causing harm to a foreign state or organization commits abduction over a person or other act of violence, causes explosion or fire or takes other generally dangerous acts or threats by use of nuclear, chemical, bacteriological or other similar means, shall be punished by imprisonment for a term of three to fifteen years.

(2) If an offence referred to in Paragraph 1 of this Article resulted in death of one or more persons, the offender shall be punished by imprisonment for a term of five to fifteen years.

(3) If in the commission of crime referred to in Paragraph 1 of this Article the offender has committed murder, the offender shall be liable to imprisonment for a minimum term of ten years or to imprisonment of thirty years.

Taking hostages

Article 448

(1) Anyone who commits abduction of a person or threatens to kill that person, hurt or keep as hostage with the intention of forcing a state or international organization to do or not to do something, shall be punished by imprisonment for a term of two to ten years.

(2) The offender referred to in Paragraph 1 of this Article who frees the hostage of his own free will, although the purpose of the abduction has not been reached, can be liable to a reduced sentence.

(3) If an offence referred to in Paragraph 1 of this Article resulted in death of the hostage, the offender shall be punished by imprisonment for a term of three to fifteen years.

(4) If during the commission of offences referred to in Paragraph 1 of this Article, the offender committed murder of the hostage, the offender shall be liable to imprisonment for a minimum term of ten years or a prison sentence of thirty years.

Financing of terrorism

Article 449

(1) Anyone who provides or raises funds intended for financing of criminal offences referred to in Articles 447 to 448 of the present Code, shall be liable to imprisonment for a term of one year to ten years.

(2) Funds referred to in Paragraph 1 of this Article shall be seized.

CHAPTER THIRTY SIX

CRIMINAL OFFENCES AGAINST THE ARMY OF SERBIA AND MONTENEGRO

Evasion of military service

Article 450

(1) Anyone who, without justifiable cause, fails to report for military conscription, for the compulsory military service or reserve military staff training, or avoids to receive a call-up notice to do his service, shall be punished by either a fine or imprisonment for a maximum term not exceeding one year.

(2) Anyone who hides so as to avoid his duty referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term of three months to three years.

(3) Anyone who leaves the country or stays abroad so as to avoid his military duty referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term of one to eight years.

(4) Anyone who calls to several persons or instigates them to commit acts referred to in Paragraphs 1 to 3 of this Article, shall be punished for the offences referred to in Paragraph 1 by imprisonment for a maximum term not exceeding three years, and for the offences referred to in Paragraphs 2 and 3 by imprisonment for a term from two to twelve years.

(5) The offender of criminal offences referred to in paragraphs 1 to 3 of this Article who voluntarily reports himself to a competent state authority can be acquitted from punishment.

Evasion of registration and inspection

Article 451

(1) Anyone who, in violation of an obligation under law and without justification, fails to observe an invitation to report to a registration or inspection authority, or opposes to registration or inspection of manpower or resources necessary for the defence of the country, or who provides false information for such registration or inspection, shall be liable to a fine or imprisonment for a term not exceeding one year.

Evasion of obligation to provide resources

Article 452

(1) Anyone who, in violation of an obligation under law and without justification, fails to bring to a determined location, at the time and in the condition that makes them useful for the intended purpose, the material resources or livestock, shall be liable to a fine or punishment for a term not exceeding one year.

(2) If the offence referred to in Paragraph 1 of this Article was committed during imminent war danger, state of war, armed conflict or emergency state, the offender shall be punished by imprisonment for a term of six months to five years.

Evasion of military service by self- disabling or deceit

Article 453

(1) Anyone who, with the intention to evade military service and be displaced to an easier duty, hurts himself or temporarily disables himself for army service in some other way, or allows another to temporarily disable him, as well as anyone who temporarily disables another with or without the permission of another with the same purpose, shall be punished by imprisonment for a term of three months to five years.

(2) If the commission of offences referred to in Paragraph 1 of this Article results in permanent disability for military service, the offender shall be punished by imprisonment for a term of one to eight years.

(3) Anyone who, with the intention referred to in Paragraph 1 of this Article, simulates an illness, or uses for himself or another a false document, or acts in another fraudulent way, shall be punished by imprisonment for a term of three months to five years.

Illegal exemption from military service

Article 454

Anyone who, by abuse of his status or authority, exempts from duty or assigns to an easier duty a military person or a person subjected to military duty, shall be punished by imprisonment for a term of six months to five years.

Arbitrary leave and desertion from the Army of Serbia and Montenegro

Article 455

(1) A military person who arbitrarily leaves his unit or service for a minimum period of five days, or for a shorter period of time if he takes several leaves during the same year or arbitrarily leaves his unit or service during the period when the unit is carrying out an important assignment or is at the state of combat alert, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) A military person who hides so as to avoid military service or who arbitrarily leaves his unit or service for over thirty days, shall be punished by imprisonment for a term of three months to three years.

(3) A military person who leaves the country or stays abroad so as to avoid military service, shall be punished by imprisonment for a term from one year to eight years.

(4) A military person who prepares to escape abroad so as to avoid military service, shall be punished by imprisonment for a term of three months to three years.

(5) Anyone who calls or instigates several persons to commit the crimes referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term of one year to eight years.

(6) Anyone who calls or instigates several persons to commit the crimes referred to in Paragraphs 2 and 3 of this Article, shall be punished by imprisonment for a term of two to twelve years.

(7) The perpetrator of offences referred to in Paragraphs 2 and 3 of this Article who voluntarily reports himself to a competent state authority so as to do his military service can be liable to a reduced sentence.

Failure and refusal to execute an order

Article 456

- (1) A military person who fails to execute or refuses to execute an order of his superior in relation to his service, and such failure or refusal results in serious detrimental consequences for the service or serious threat to it, shall be punished by imprisonment for a term of three months to three years.
- (2) If offences referred to in Paragraph 1 of this Article resulted in serious consequences for the military service, or the order has been referred to the receipt and use of weapons, the offender shall be punished by imprisonment for a term of one year to eight years.
- (3) If the offences referred to in Paragraphs 1 and 2 of this Article were committed out of negligence, the offender shall be punished for the offences referred to in Paragraph 1 by a fine or imprisonment for a term not exceeding one year, and for the offences referred to in Paragraph 2 by imprisonment for a term of three months to three years.

Resistance to superior

Article 457

- (1) A military who together with other military persons offers resistance to the order of a superior officer in relation to the service and refuses to execute it, or refuses to discharge his duty, shall be punished by imprisonment for a term of three months to three years.
- (2) If the offence referred to in Paragraph 1 of this Article has been committed by organized parties, the offender shall be punished by imprisonment for a term of one year to five years.
- (3) If the offence referred to in Paragraphs 1 and 2 of this Article was committed by use of weapons, the offender shall be punished by imprisonment for a term of one year to eight years.
- (4) A military who when committing crimes referred to in Paragraphs 1 to 3 of this Article commits manslaughter by negligence, shall be punished by imprisonment for a term of two to ten years.
- (5) A person organizing and directing offences referred to in Paragraph 2 of this Article, shall be punished by imprisonment for a term of two to ten years.
- (6) A person preparing for offences referred to in Paragraph 2 of this Article, shall be punished by imprisonment for a term from three months to three years.
- (7) A military superior who, within his powers, in the event of crimes referred to in Paragraphs 1 to 4 of this Article fails to take measures that are prescribed, ordered or obviously necessary for the restoration of order, shall be punished by imprisonment for a term of one year to five years.

Resistance to a military performing special military services

Article 458

Anyone who resists to a military person who performs sentry, patrol, duty, guard or other similar services or disobeys his call or fails to obey or refuses to enforce his order, and such resistance or disobedience results in serious detrimental consequences for the service, or serious danger for the service, shall be punished by imprisonment for a term of three months to three years.

Coercion against a military on duty

Article 459

- (1) Anyone who by force or threat of immediate use of force prevents a military person from the discharge of his duties, or compels him in the same manner to act in contravention of his official duty, shall be punished by imprisonment for a term from three months to three years.
- (2) If the commission of offences referred to in Paragraph 1 of this Article resulted in serious consequences for the service, the offender shall be punished by imprisonment for a term from one to eight years.
- (3) An attempt of offences referred to in Paragraph 1 of this Article shall be subject to punishment.

Assault against a military on duty

Article 460

(1) Anyone who assaults or threatens to assault a military in the discharge of his duty, shall be punished by imprisonment for a term of three months to three years.

(2) If the commission of offences referred to in Paragraph 1 of this Article has resulted in light bodily injuries of the military person or a threat to use weapons, shall be punished by imprisonment for a term of three months to five years.

(3) If the commission of offences referred to in Paragraph 1 of this Article has resulted in grave bodily injuries of the military person or has caused serious consequences for the service out of negligence, shall be punished by imprisonment for a term of one year to eight years.

(4) If the commission of offences referred to in Paragraph 1 of this Article has resulted in manslaughter of the military person by negligence, the perpetrator shall be punished by imprisonment for a term of two to ten years.

Acquittal of punishment for offences under Articles 456 to 460

Article 461

If the offender referred to in Articles 456 and 457 Paragraph 1, 458 and 459 Paragraphs 1 and 2 and Article 460 Paragraphs 1 and 2 of the present Code has been provoked by unlawful or rude action of a military, he can be acquitted from punishment.

Maltreatment of a subordinate or a military of lower rank

Article 462

(1) A military superior who during his duty or in relation to it maltreats subordinate or a military of a lower rank or treats them in a way offensive to human dignity, shall be punished by imprisonment for a term of three months to three years.

(2) If the offence referred to in Paragraph 1 of this Article has resulted in grave bodily injuries or serious harm to health of a subordinate or a military of a lower rank or if the offence has been committed against several persons, the offender shall be punished by imprisonment for a term of one year to five years.

Violation of special military services

Article 463

(1) A military who acts in contravention of regulations on sentry, patrol, duty, guard or other similar services, and if it results in grave detrimental consequences for the services or serious danger for the service, shall be punished by imprisonment for a term of three months to three years.

(2) If the offence referred to in Paragraph 1 of this Article has been committed at an arms, ammunition or explosives depots, or at any other important facility, the offender shall be punished by imprisonment for a term of three months to five years.

(3) If the offences referred to in Paragraphs 1 and 2 of this Article resulted in grave bodily injuries, or extensive damage to property, or other grave detrimental consequences, the offender shall be punished by imprisonment for a term of one year to eight years.

(4) If the offences referred to in Paragraphs 1 and 2 of this Article resulted in the death of one or more persons, the offender shall be punished by imprisonment for a term of two to twelve years.

(5) If the offences referred to in Paragraphs 1 to 4 of this Article have been committed by negligence, the offender shall be punished for the offences referred to in Paragraph 1 by a fine or imprisonment for a term not exceeding one year, for the offence referred to in Paragraph 2 by a fine or imprisonment for a maximum term not exceeding two years, for the offence referred to in Paragraph 3 by imprisonment for a term from three months to three years and for the offence referred to in Paragraph 4 by imprisonment for a term of one year to eight years.

Violation of state border guard duty

Article 464

(1) A military who while performing his duty at the state border acts in contravention of the regulations on state border guard, and this results in serious detrimental consequences, or serious danger for the service, shall be liable to imprisonment for a term of three months to five years.

(2) If the offence referred to in Paragraph 1 of this Article was committed during discharge of duty in special circumstances or if it resulted in grave bodily injuries, or extensive damage to property or other serious consequences, the offender shall be liable to imprisonment for a term of one year to eight years.

(3) If the offence referred to in Paragraph 1 of this Article has resulted in death of one or more persons, the offender shall be punished by imprisonment for a term of two to twelve years.

(4) If the offence referred to in paragraph 1 of this Article has been committed by negligence, the offender shall be punished by either a fine or imprisonment for a term of one year.

(5) If the offence referred to in Paragraph 4 of this Article has resulted in consequences referred to in Paragraph 2 of this Article, the offender shall be punished by imprisonment for a term of three months to three years, and if it has resulted in the consequence referred to in Paragraph 3 of this Article, the offender shall be punished by imprisonment for a term of one year to eight years.

Submission of false reports

Article 465

(1) A military person who reports to his superior, orally or in writing, including false information important for the service or omits important information, or forwards such a report although he knows information is false, and this results in grave detrimental consequences for the service or serious danger for the service, shall be punished by imprisonment for a term of three months to three years.

(2) If the offence referred to in Paragraph 1 of this Article has been committed in relation to a report of utmost significance or has resulted in grave consequences, the offender shall be punished by imprisonment for a term of one year to eight years.

(3) If the offence referred to in Paragraphs 1 and 2 of this Article has been committed by negligence, the offender shall be punished for the offence in Paragraph 1 by a fine or imprisonment for a maximum term not exceeding one year, and for the offence referred to in Paragraph 2 by imprisonment for the term of three months to three years.

Failure to take measures for the security of a military unit

Article 466

(1) A military commander who fails to take measures within his powers that are prescribed, ordered or other measures obviously necessary to ensure the security of the unit, protection of life and health of people entrusted to him, security and maintenance of facilities, objects and resources serving for combat readiness, regular provisions of food or military equipment or keeping of livestock, or timely and diligently restoration work or security of facilities entrusted to him, thus endangering the life of people or seriously endangers the health of people or property of large value, shall be liable to imprisonment for a term of six months to five years.

(2) If the offences referred to in Paragraph 1 of this Article result in a grave bodily injury, or extensive damage to property, or other grave consequences, the offender shall be liable to imprisonment for a term of one year to eight years.

(3) If the offences referred to in Paragraph 1 of this Article result in the death of one or more persons, the offender shall be punished by imprisonment for a term of two to twelve years.

(4) If the offences referred to in Paragraph 1 of this Article have been committed by negligence, the offender shall be liable to a fine or imprisonment for a maximum term not exceeding two years.

(5) If the offences referred to in Paragraph 4 of this Article result in the consequence referred to in Paragraph 2 of this Article, the offender shall be punished by imprisonment for a term of three months to three years, and if it results in the consequence referred to in Paragraph 3 of this Article, the offender shall be liable to imprisonment for a term of one year to eight years.

Unconscientiously manufacture and acceptance of delivery of weapons and other military equipment

Article 467

(1) A military or other person in charge of a company or other legal entity catering to the needs of defence and is entrusted with management of production or other technological process or their supervision who unconscientiously performs his service or duty entrusted to him, and as a result of this, weapons, ammunition, or other military equipment is not manufactured in time or does not correspond to prescribed quality, shall be liable to imprisonment for a term of three months to three years.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a military or other persons who unconscientious discharge of duty accepts weapons or other military equipment that do not correspond to the terms or contract.

(3) If the offences referred to in Paragraphs 1 and 2 of this Article result in grave consequences, the offender shall be punished by imprisonment for a term of one year to eight years.

(4) If the offences referred to in Paragraphs 1 and 2 of this Article have been committed by negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding one year.

(5) If the offences referred to in Paragraph 4 of this Article result in the consequence referred to in Paragraph 3 of this Article, the offender shall be punished by imprisonment for a term of three months to three years.

Failure to observe regulations in handling entrusted weapons

Article 468

(1) Anyone who fails to observe regulations while keeping, storing or handling the entrusted weapons, ammunition or explosives owned by the military unit or institution, thus causing extensive damage to them, their destruction or disappearance,

shall be punished by imprisonment for a term from three months to three years.

(2) The manager of the depot of weapons, ammunition, explosives, and other combat means who fails to take measures for their security and maintenance, which results in extensive damage, destruction or disappearance of such combat means, shall be punished by imprisonment for a term from six months to five years.

(3) If the offence referred to in paragraph 2 of this Article results in extensive property damage, the offender shall be punished by imprisonment for a term from one to eight years.

(4) If the offence referred to in paragraphs 1 and 2 of this Article has been committed by negligence, the offender shall be punished by a fine or imprisonment for a maximum term of two years.

(5) If the offence referred to in paragraph 4 of this Article results in the consequence referred to in paragraph 3 of this Article, the offender shall be punished by imprisonment for a term from three months to five years.

Illegal handling of entrusted weapons

Article 469

Anyone who appropriates, alienates, pawns, confers to another for use, damages or destroys weapons, ammunition or explosives that have been entrusted to him for use and serve the defence purposes, shall be punished by imprisonment for a term of three months to five years.

Theft of weapons and part of combat means

Article 470

(1) Anyone who steals weapons, ammunition, explosives, combat means or part of combat means serving for defence purposes, shall be punished by imprisonment for a term of six months to five years.

(2) If the value of objects referred to in Paragraph 1 of this Article exceeds the amount of € 3.000 or if the theft has been committed by breaking into locked facilities, rooms, safes, cabinets or other closed premises, or has been committed by an organized group of people, or has been committed in a dangerous or rude way, or by a person who had on him weapon or a dangerous tool for attack or defence, or during a fire, flood, earthquake or other calamity, the offender shall be liable to imprisonment for a term of two to ten years.

(3) If the value of objects referred to in Paragraph 1 of this Article exceeds the amount of € 30.000, the offender shall be liable to imprisonment for a term of two to twelve years.

Disclosure of military secrets

Article 471

(1) Anyone who, without authorization communicates, conveys or in some other way makes available to another information that constitutes a military secret or anyone who obtains such information with intention to convey it to unauthorized person, shall be punished by imprisonment for a term of three months to five years.

(2) If the offence referred to in Paragraph 1 of this Article has been committed for gain, or in relation to particularly confidential information, or with the purpose of their publication or use of such information abroad, the offender shall be liable to imprisonment for a term of one year to eight years.

(3) If the offence referred to in Paragraph 1 of this Article has been committed by negligence, the offender shall be liable to imprisonment for a term not exceeding three years.

(4) A military secret shall be understood to mean information that under law, other regulation or a decision of a competent authority passed in conformity with law has been proclaimed a military secret and whose disclosure would or may cause detrimental consequences for the Army of Serbia and Montenegro or the defence and security of the country.

Trespass on military facilities

Article 472

Anyone who makes an unauthorized trespass on a military facility, or makes sketches or drawings of military facilities or combat means, or takes photographs of them, or makes any other kind of record, although he knows such action is prohibited, shall be liable to imprisonment for a term not exceeding three years.

Punishment for criminal offences committed during imminent war danger, state of war, armed conflict and state of emergency

Article 473

(1) For criminal offences referred to in Articles 450 Paragraph 1, 455 Paragraphs 1 and 4, 456 Paragraphs 1 and 3, 457 Paragraphs 1 and 7, 458, 459, 460 Paragraphs 1 and 2, 462 Paragraph 1, 463 Paragraphs 1 and 5, 464, Paragraphs 1, 4 and 5, 465, 466 Paragraphs 1 and 4, 467 Paragraphs 1, 2 and 5, 468 Paragraphs 1, 2, 4 and 5, 469, 470 Paragraph 1, 471 Paragraphs 1 and 3 and Article 472 of the present Code, provided they have been committed during imminent war danger, state of war, armed conflict or state of emergency, the offender shall be liable to imprisonment for a term of two to ten years.

(2) For criminal offences referred to in Articles 450 Paragraphs 2 to 4, 453, 454, 455 Paragraphs 2, 3 and 5, 456 Paragraph 2, 460 Paragraphs 3 and 4, 462 Paragraph 2, 463 Paragraph 3, 464 Paragraph 2, 466 Paragraphs 2 and 5, 467 Paragraph 3, 468 Paragraph 3, 470 Paragraphs 2 and 3 and Article 471 Paragraph 2 of the present Code, provided they have been committed during imminent war danger, state of war, armed conflict, or state of emergency, the offender shall be punished by imprisonment for a term of three to fifteen years.

(3) For criminal offences referred to in Articles 463 Paragraph 4, 464 Paragraph 3 and Article 466 Paragraph 3 of the present Code, provided they have been committed during imminent war danger, state of war, armed conflict, or state of emergency, the offender shall be liable to imprisonment for a minimum term of ten years.

Failure to fulfil a duty in organization of mobilization

Article 474

(1) A military or official person who during mobilization in imminent war danger, state of war, armed conflict or state of emergency, in violation of his duty, fails to ensure the reception, displacement, and accommodation of mobilized manpower, transport and other means and livestock, or fails to ensure the provisions for mobilized manpower or livestock, or fails to perform any other duty in relation to mobilization, which resulted or could have resulted in detrimental consequences, shall be punished by imprisonment for a term of one year to five years.

(2) If the offences referred to in Paragraph 1 of this Article have resulted in grave consequences, the offender shall be liable to imprisonment for a minimum term of ten years.

(3) If the offences referred to in Paragraph 1 of this Article have been committed by negligence, the offender shall be liable to imprisonment for a term not exceeding three years.

(4) If the offences referred to in Paragraph 3 of this Article have resulted in the consequence referred to in Paragraph 2 of this Article, the offender shall be punished by imprisonment for a term of three months to five years.

Undermining of military and defence power

Article 475

(1) Anyone who destroys, makes useless or who enables the transfer to enemy of defence installations, defence facilities, position, arms and other military and defence facilities, vessel or aircraft or turns his unit over to the enemy without combat or before all means for combat have been exhausted, or hinders and endangers in some other way the military or defence measures, shall be punished by imprisonment for a term of three to fifteen years.

(2) Anyone who commits an act referred to in Paragraph 1 of this Article with the intention of assisting the enemy, shall be liable to imprisonment for a term of five to fifteen years.

(3) Anyone who prepares the commission of offences referred to in Paragraphs 1 and 2 of this Article, shall be liable to imprisonment for a term of one year six years.

(4) If the offences referred to in Paragraph 1 of this Article have been committed by negligence, the offender shall be liable to imprisonment for a term of one year to eight years.

(5) If the offences referred to in Paragraphs 1 and 2 of this Article have resulted in the death of one or more persons, or have endangered life of people, or have been accompanied by serious acts of violence or extensive devastation or have resulted in a threat to safety, economic or military power of the country, the offender shall be liable to imprisonment for a minimum term of ten years.

Preventing fight against enemy

Article 476

(1) Anyone who during a war or armed conflict prevents citizens of SMN or citizens of its allies from fighting against the enemy, shall be punished by imprisonment for a term of five to fifteen years.

(2) Anyone who during a war or armed conflict discourages citizens of SMN or citizens of its allies from fighting against the enemy by propaganda activities or in some other way, shall be punished by imprisonment for a term of one year to eight years.

Defection and surrender to the enemy

Article 477

(1) A military person who during a war or armed conflict defects to the regular enemy forces, shall be liable to a minimum term of ten years or a prison sentence of thirty years.

(2) A military person who during a war or armed conflict defects to the enemy before having previously exhausted all capacity of defence, shall be punished by imprisonment for a term of two to ten years.

Service in the army of the enemy

Article 478

(1) A citizen of SMN who in times of war or armed conflict serves in the enemy army or other enemy armed formations, or takes part in the war or armed conflict as a combatant against SMN and its allies, shall be punished by imprisonment for a term of three to fifteen years.

(2) Anyone who recruits citizens of SMN for service in the enemy army or other enemy armed formations or for participation in the war or armed conflict against SMN or its allies, shall be punished by imprisonment for a term of five to fifteen years.

Assistance to enemy

Article 479

(1) A citizen of SMN who during a war or armed conflict assists the enemy in requisition, taking away of food or other resources or in taking any kind of coercive measures against the population, shall be punished by imprisonment for a term of two to ten years.

(2) The punishment referred to in Paragraph 1 of this Article shall also be imposed on a citizen of SMN who had political and economic cooperation with the enemy during the war.

(3) If the offences referred to in Paragraphs 1 and 2 of this Article have resulted in the death of one or more persons, or have endangered the life of people, or have been accompanied by serious acts of violence, or extensive devastation, or have threatened the safety or the economic or military power of the country, the offender shall be liable to imprisonment for a minimum term of ten years.

Failure to discharge duty and abandonment of duty in combat

Article 480

(1) A military person who in combat or immediately prior to it, fails to discharge his duty and this results in detrimental consequences for the military unit or military situation, shall be punished by imprisonment for a term from two to ten years.

(2) The punishment referred to in Paragraph 1 of this Article shall also be imposed on a military who in combat or immediately before it abandons his duty of his own free will or through deceit.

(3) If the offences referred to in Paragraphs 1 and 2 of this Article have resulted in serious consequences, the offender shall be liable to imprisonment for a minimum term of ten years.

Abandonment of position contrary to order

Article 481

(1) A military commander who, in breach of an order, abandons a position with the unit entrusted to him before having exhausted all capacity for defence, shall be punished by imprisonment for a term of two to twelve years.

(2) If the offence referred to in Paragraph 1 of this Article has resulted in serious consequences, the offender shall be liable to imprisonment for a minimum term of ten years.

Early abandonment of a damaged vessel and aircraft

Article 482

(1) A commander of a navy vessel who during a war or armed conflict abandons a damaged vessel before having fulfilled his duty under regulations on navy service, shall be punished by imprisonment for a term of two to ten years.

(2) A member of crew of a navy vessel who during a war or armed conflict deserts the damaged vessel before the commander issues order for abandonment, or a member of crew of a military aircraft who during a war or armed conflict abandons the damaged military aircraft before having fulfilled his duty under regulations on flight and usage of aircraft, shall be punished by imprisonment for a term of one year to eight years.

(3) If the offences referred to in Paragraphs 1 and 2 of this Article have resulted in serious consequences, the offender shall be punished for the offence referred to in Paragraph 1 of this Article by imprisonment for a minimum term of ten years, and for the offence referred to in Paragraph 2 of this Article by imprisonment for a term of two to ten years.

Weakening of combat morale

Article 483

(1) Anyone who, immediately before or during combat, by provoking dissatisfaction among military persons, spreading discouraging information, escape, throwing away arms or ammunition, causing or spreading fear, or in some other way, weakens the combat morale in a military unit or causes harm to military situation, shall be punished by imprisonment for a term of two to twelve years.

(2) A military commander who fails to take necessary measures against a subordinate or other officer of a lower rank who during combat or immediately prior to combat spreads fear among soldiers or in some other way weakens the combat morale of the unit or causes harm to military situation, shall be punished by imprisonment for a term of one year to eight years.

(3) If the offences referred to in Paragraphs 1 and 2 of this Article have resulted in serious negative consequences, the offender shall be liable to imprisonment for a minimum term of ten years.

Failure to report to military bodies

Article 484

(1) Anyone who, during imminent war danger, state of war, armed conflict or state of emergency, fails to inform the superior, other officer of a higher rank or military command about the event that obviously requires undertaking of urgent military measures, shall be liable to imprisonment for a term not exceeding three years.

(2) If the offences referred to in Paragraph 1 of this Article have resulted in serious consequences, the offender shall be punished by imprisonment for a term of two to ten years.

Criminal offences committed following orders of superiors

Article 485

Exempted from punishment shall be a subordinate who commits a crime related to official duty following the order of a superior, unless the order referred to the commission of a crime that is punishable by imprisonment for a term of five years or a more serious penalty, and the subordinate knew that fulfilment of the order constituted a criminal offence.

CHAPTER THIRTY SEVEN

TRANSITIONAL AND CONCLUDING PROVISIONS

Article 486

If, prior to coming into effect of the present Code, an educational measure of strict supervision in another family has been imposed on a juvenile, the court which tried the juvenile in the first instance shall replace that measure by another one envisaged by law but which, by its type or duration, should not be more heavier than the pronounced measure.

Article 487

On the date of the entry into force [1] of the present Code, all criminal law provisions encompassed by other laws in contravention of this Code shall cease to exist.

Article 488

The present Code shall enter into force on the eighth day after being published in the "Official Gazette of the Republic of Montenegro", and its implementation shall commence three months after its entry into force.

[1] Correction: Official Gazette no. 13/2004: Words: 'entry into force' shall be replaced by: 'commencement of implementation'.